2906

SUPREME COURT OF THE UNITED STATES.

No. 107.

JAMES A. POTTER, CLAIMANT OF THE SHIP PANTHER, &c., APPELLANT,

vs.

THE UNITED STATES.

ON APPEAL FROM THE CIRCUIT COURT OF THE U. S. FOR SOUTH CAROLINA.

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In the admiralty.

THE UNITED STATES OF AMERICA,

South Carolina district.

Pleas before the honorable Robert B. Gilchrist, judge of the district court of the United States, for South Carolina district.

It is thus contained:

Be it remembered, that on the fourteenth day of March, A. D. 1846, comes into the said court Edward McCrady, esq., U. S. attorney for said district, and exhibits the libel of information in the case of—

THE UNITED STATES OF AMERICA
vs.
THE SHIP PANTHER, her tackle, apparel, furniture, and lading.

Under 2d section, act 20th April, 1818, 3d vol. Story's laws U. S., page 1,698; 1st sect., act 22d March, 1794, 1st vol. Story's laws U. S., page 319; 1st sect., act 3d March, 1819, 3d vol. Story's laws U. S., page 1,752; 1st sect., act 10th May, 1800, 1st vol. Story's laws U. S., page 780.

And the same being read and filed, is in the words following, to wit:

Libel of information.

Be it remembered, that on this 14th day of March, in the year of our Lord one thousand eight hundred and forty-six, before the honorable R. B. Gilchrist, judge as aforesaid, comes, in his own proper person, Edward McCrady, esq., U. S. attorney for the aforesaid district of South Carolina, and in the name and behalf as well of the United States as of Charles H. Bell, esq., commander, commanding the United States ship Yorktown, and of the officers and men of the said ship, and of all other persons concerned, propounds and gives the said judge to understand and be informed, as follows: That the said Charles H. Bell, commander, commanding the United States ship Yorktown, did seize and take a certain American ship, called the Panther, of the burthen of about four hundred and seven tons, whereof Joshua M. Clapp is master, together with her tackle, apparel, furniture, lading, and appurtenances, at the port of Kabenda, on the west coast of Africa, "on waters which are navigable from the sea by vessels of ten or more tons burthen," and did bring or send the said ship Panther, with her said cargo, into the port of Charleston, in the district aforesaid, where she now lies, "on waters which are navigable from the sea by vessels of ten or more tons burthen," and now hath the same in his custody in the said port of Charleston, as being forfeited for the causes hereinafter mentioned, to wit:

First. For that the said ship or vessel, since the twentieth day of April, A. D. one thousand eight hundred and eighteen, was fitted out,

equipped, laden, or otherwise prepared by James A. Potter and Joshua M. Clapp, citizens of the United States, as owner and master, in a certain port or place within the jurisdiction of the United States, to wit, on the 23d day of February, A. D. one thousand eight hundred and forty-five, in the port of New York, for the purpose of procuring negroes, mulattoes, or persons of color from a foreign kingdom, place, or country, to wit, from Africa, to be transported to another port or place, to wit, to Rio Janeiro, in the kingdom of Brazil, there to be held, sold, or otherwise disposed of as slaves, or there to be held to service or labor, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Second. For that the said ship or vessel, since the twentieth day of April, A. D. one thousand eight hundred and eighteen, to wit, on the twenty-third day of February, A. D. one thousand eight hundred and forty-five, was fitted out, equipped, laden, or otherwise prepared by a citizen or citizens of the United States, or other person or persons, either as master, factor, or owner, in a certain port or place within the jurisdiction of the United States, to wit, in the port of New York, for the purpose of procuring negroes, mulattoes, or persons of color from a foreign kingdom, place, or country, to be transported to some port or place, there to be held, sold, or otherwise disposed of as slaves, or to be held to service or labor, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Third. And also for that the said ship or vessel, since the twenty-second of March, A. D. one thousand eight hundred and *ninety*-four, to wit, on the twenty-third of February, A. D. one thousand eight hundred and forty-five, was fitted out within a port or place of the said United States, to wit, within the port of New York, or caused to sail from a port or place within the said United States, to wit, from the port of New York aforesaid, by a citizen or citizens of the said United States, or a foreigner or other person coming into or residing within the same, either as master, factor, or owner of the said ship or vessel, for the purpose of carrying on trade or traffic in slaves to a foreign country, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Fourth. And also for that the said ship or vessel, since the twenty-second of March, A. D. one thousand seven hundred and ninety-four, to wit, on the twenty-third of February, A. D. one thousand eight hundred and forty-five, was fitted out within a port or place of the said United States, to wit, within the port of New York, or caused to sail from a port or place within the said United States, to wit, from the port of New York aforesaid, by a citizen or citizens of the said United States, or a foreigner, or other person coming into or residing within the same, either as master, factor, or owner of the said ship, for the purpose of procuring from a foreign kingdom, place, or country, the inhabitants of such kingdom, place, or country, to be transported to a foreign country, port, or place, to be sold or disposed of as slaves, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Fifth. And also for that the said ship or vessel, since the third of March, one thousand eight hundred and nineteen, was, on or about the thirteenth of December, A. D. one thousand eight hundred and forty-five, on the coast of Africa, to wit, at the port of Kabenda, and then and there was intended for the purpose of taking on board and of transporting negroes, mulattoes, or persons of color from a foreign kingdom, place, or country, to wit, from Africa aforesaid, to some other port or place, to wit, to Rio Janeiro, there to be held, sold, or otherwise disposed of as slaves, or there to be held to service or labor, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Sixth. And also for that the said ship or vessel, since the 3d of March, A. D. one thousand eight hundred and nineteen, was, on or about the thirteenth of December, A. D. one thousand eight hundred and forty-five, on the coast of Africa, to wit, at the port of Kabenda, and then and there was intended for the purpose of taking on board and of transporting negroes, mulattoes, or persons of color from a foreign kingdom, place, or country, to wit, from Africa aforesaid, to some other port or place, (to the attorney aforesaid as yet unknown,) there to be held, sold, or otherwise disposed of as slaves, or there to be held to service or labor, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Seventh. And also for that the said ship or vessel, being the property of a citizen of the United States, to wit, being the property of James A. Potter, a citizen of the United States, after the tenth day of May, A. D. one thousand eight hundred, to wit, on or about the eighth day of August, A. D. one thousand eight hundred and forty-five, and on divers days from thence until her capture as aforesaid, to wit, until the 13th December, A. D. one thousand eight hundred and forty-five, was employed in the transportation or carrying of slaves from one foreign country or place to another, to wit, from Africa to Rio Janeiro, in the kingdom of Brazil, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

Eighth. And also for that the said ship or vessel, being the property of a citizen of the United States, to wit, being the property of James A. Potter, a citizen of the said United States, after the tenth day of May, A. D. one thousand eight hundred, to wit, on or about the eighth of August, A. D. one thousand eight hundred and forty-five, and divers other days from thence until her capture as aforesaid, to wit, until the thirteenth of December, A. D. one thousand eight hundred and forty-five, was employed in the transportation or carrying of slaves from one foreign country or place to another, to wit, from Africa to some other foreign country or place, to the said attorney as yet unknown, contrary to the true intent and meaning, and against the form of the statute in such case made and provided.

By reason of all which the premises and the statutes in this behalf made and provided, the said ship Panther, her tackle, apparel, furniture, and lading have become and are forfeited to the uses in said statutes specified; wherefore the said attorney prays the advisement of the

said judge in the premises, and for a monition or other proper process, to the end that the same may be decreed to be and remain forfeited, and the proceeds, after condemnation, be distributed, according to the provisions of the statutes aforesaid.

EDWARD McCRADY,
United States att'y, So. Ca. dist.

Interrogatories.

Interrogatories to James A. Potter, or any other claimant in the above cause.

First. When did you first see the ship Panther in New York, before her departure from that port for Cadiz, in February, 1845; who then owned her; when did you purchase her from that owner, and what was the price you gave for her?

Second. What was her condition when you purchased her; was she ready for sea, or did you fit her and prepare her for her voyage; how much did you expend in such preparations, and how long did it take so to fit and prepare her; and when was she ready for sea?

Third. Who was the master of the said ship when you closed your bargain for her purchase from the former owner; was Joshua M. Clapp master at that time, or did she have any other master at that time commanding her; when did you first engage the said Joshua M. Clapp as master?

Fourth. Did you not address to the said Joshua M. Clapp a letter of instructions relative to the voyage he was about to set out upon, dated 22d Feb'y, 1845, at New York; and another dated 30th Jan'y, 1845; and a third dated 15th March, 1845; look at the original letters left with the clerk or register of this court, and say whether you recognise them as the three letters alluded to above in this interrogatory?

Let a warrant of arrest issue, returnable on Monday next, the 16th of March inst., at 12 o'c., m.

R. B. GILCHRIST, *D. J.*

March 14th, 1848.

Warrant.

THE UNITED STATES OF AMERICA,
South Carolina district.

In the court of admiralty of the United States of America, for S. Carolina district.

The United States of America, to the marshal of the court of admiralty, for the district aforesaid, or his lawful deputy, greeting:

You are hereby commanded, without delay, to arrest the ship Panther, her tackle, apparel, furniture, and lading, now lying in the port of Charleston, to answer the libel of the United States of America. And how you shall execute this precept, you make known to us in our district court, for the district aforesaid, at the court-house, in the city of Charleston, in the district aforesaid, the 16th day of March inst., at 12 o'c., m., and have you then and there this writ.

Witness the honorable R. B. Gilchrist, judge of the court at Charleston, the fourteenth of March, A. D. one thousand eight hundred and forty-six, and of the sovereignty and independence of the United States of America the 70th year.

[SEAL.]

H. Y. GRAY, *Dist. Cl'k.*
EDWARD McCRADY,
U. S. att'y, S. C. D.

Monday, 16*th March*, 1846.

The court met, &c. Present, his honor, R. B. Gilchrist.

THE UNITED STATES
vs.
THE SHIP PANTHER & Cargo.

The marshal returned the warrant of arrest issued in this case.

Ordered that a monition issue, returnable on the 3d of April next, at 11 o'c., a. m.; and that the marshal give notice thereof daily in the Charleston Courier, until the day fixed for the return of said monition.

Monition.

THE UNITED STATES OF AMERICA,
South Carolina district.

In the court of admiralty of the United States, for So. Carolina district.

The United States of America, to Thomas D. Condy, esq., marshal of the court of admiralty, for the district aforesaid, or his lawful deputy, greeting:

You and each of you are hereby commanded, without delay, to cite and admonish, and these are therefore to cite and admonish, all persons in general who have, or pretend to have, any right, title, claim, interest, property or demand whatsoever, in, to, or out of the ship Panther, her tackle, apparel, furniture, and lading, against which a libel has been exhibited and filed in the said court, praying that the same may be condemned as forfeited to the said United States for a breach of an act entitled "An act in addition to 'an act to prohibit the introduction of slaves into any port or place within the jurisdiction of the United States, from and after the first day of January, A. D. one thousand eight hundred and eight;'" and also for a breach of another act entitled "An act to prohibit the carrying on the slave trade from the United States to a foreign place or country;" and also for a breach of another act entitled "An act in addition to the act prohibiting the slave trade;" and also for a breach of another act entitled "An act in addition to the act entitled 'an act to prohibit the carrying on the slave trade from the United States to any foreign place or country.'" That they be and appear before the honorable R. B. Gilchrist, judge of the said court, at a court to be holden at the court-house, on Friday the 3d day of April next, at 11 o'c., a. m., to shew cause, if any they have, why the said ship Panther, her tackle, apparel, furniture, and lading should not be condemned as forfeited to the said United States.

Witness the honorable Robert B. Gilchrist, judge of the said court, at Charleston, the 16th March, A. D. one thousand eight [SEAL.] hundred and forty-six.

H. Y. GRAY, *D. Cl'k.*
EDWARD McCRADY,
U. S. att'y, S. C. D.

Order to file claim.

At chambers, 28th March, 1846.

Before his honor R. B. Gilchrist.

On motion of B. F. Hunt, esq., proctor for Jas. A. Potter, it is ordered that the said James A. Potter have leave to file a claim to the said ship Panther, on entering into a stipulation, with sureties, in the sum of three hundred dollars, for the payment of all costs and expenses which may be awarded against him by the final decree of the court in this case, or upon an appeal by the appellate court.

R. B. GILCHRIST, *D. J.*

Claim.

In the admiralty.

THE UNITED STATES OF AMERICA,
District of South Carolina.

The claim of James A. Potter to the ship Panther, her cargo, tackle, and apparel, seized and taken out of the possession of Joshua M. Clapp, the master thereof, by Charles H. Bell, esq., commander, commanding the United States ship Yorktown, on the coast of Africa, and now libelled in this honorable court, for being illegally engaged in the slave trade.

Now, James A. Potter, builder, respectfully represents to this honorable court, that he is the owner of the said ship Panther and her cargo, that the said ship was in the lawful and rightful possession of Joshua M. Clapp, the captain thereof, as the agent of him, the said Potter, on the coast of Africa; on the day of Dec'r, A. D. one thousand eight hundred and forty-five.

That said ship, the Panther, and her cargo, have been there seized and sent into the port Charleston for an alleged violation of the laws of the United States for the prevention of the slave trade; and that libel against the said ship is now pending in this honorable court.

And the said James A. Potter, owner of the said ship and cargo as aforesaid, not admitting the several allegations in the said libel to be true, claims the said ship Panther and appurtenances, in his own behalf as owner, and damages for the detention and loss sustained by said seizure, which he avers was illegal.

JAMES A. POTTER.

Sworn to before me, this 28th March, 1846.

MORRIS GOLDSMITH, *Magistrate.*

Answer to interrogatories appended to the information.

Answer of James A. Potter. To the 1st interrogatory he answers: That he first saw the Panther about five weeks before she sailed for Cadiz. Respondent purchased her from Edward Corrington, of Providence, Rhode Island, about five weeks before she sailed, at the price of $5,500.

To the 2d he answers: That the ship was in good order when he bought her, except the top-gallant yard and flying jib-boom, and a small piece of copper off her bows under the anchor, and painting her outboard. The cost of these repairs was about $70. She was ready to receive cargo as soon as she discharged her home cargo of coffee from Rio, about the time I purchased her. It cost about $1,400 to clear the ship out from New York, putting cargo on board, which took four or five days; the vessel was ready for sea on 23d Feb., 1845.

3d. Capt. Abbott, of Providence, was the master of the Panther, and I wished to secure his services, but he declined until he saw his former owners, and then answered that he expected employment in the same concern, and I was obliged to employ another captain.

4th. I wrote the letter of instruction, and by mere oversight was not signed, although it was all in my own handwriting; and all of them written with no other intent or meaning than is expressed in them; they were intended as fair instructions to Capt. Clapp, and contain nothing which any honest man need be ashamed of.

JAMES A. POTTER.

Sworn to before me, this 30th March, 1846.

JOHN E. PHILLIPS, *Notary Public.*

Monday, 30*th March*, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

THE UNITED STATES
vs.
THE SHIP PANTHER, &c. } Information.

Mr. McCrady, the United States attorney, was present; also Col. Hunt and Messrs. Bailey & Brewster, for the claimant.

The following witnesses were sworn and examined, viz: Capt. T. G. Munro for the claimant, and for the United States, Passed Midshipman H. S. Newcomb.

(NOTE.—See copy of their testimony hereafter.)

The court then adjourned.

Tuesday, 31*st March*, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

The examination of H. S. Newcomb continued.

Mr. H. G. D. Brown was sworn and examined.

The court here made the following order, viz:

On motion of the United States attorney, and with the consent in person of H. S. Newcomb, passed midshipman, and H. G. D. Brown, midshipman, in the United States navy, who were on board the Yorktown at the time she captured the Panther, it is ordered, that should the said ship Panther be declared prize and condemned, the portion which may be awarded to the officers of the Yorktown shall be distributed as though the said H. S. Newcomb and H. G. D. Brown had not been on board of her at the time of the capture.

April 1st, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

Mr. Nathaniel Bartles was sworn and examined on the part of the libellants.

April 2d, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

Captain J. M. Clapp was sworn and examined on the part of the claimant.

April 3d, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

The marshal returned the monition issued in this case as duly served, and proclamation was made in due form.

Order for appraisement.

On motion of Col. Hunt, proctor for claimant, it is ordered, that a warrant do issue, directed to James March, William Kirkwood, and William Bird, requiring them to appraise the ship Panther, her tackle, apparel, &c., and return the same when executed to this court.

Also ordered, that a warrant do issue, directed to the same gentlemen, directing them to appraise an anchor and chain cable, belonging to the ship Panther, and taken up on Charleston bar, and to return the said warrant, when excuted, to this court.

Messrs. Marsh, Kirkwood, and Bird were sworn in due form as appraisers.

The examination of Captain Clapp was resumed.

Henry M. Gray and L. M. Baxter were sworn and examined on the part of the claimant.

April 4th, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

Return of appraisers.

Messrs. Marsh, Kirkwood, and Bird, who were yesterday sworn to appraise the ship Panther, her tackle, &c., and also an anchor and chain cable, came into court, and made their returns upon oath.

Ordered, that said returns be filed and entered.

Order to release ship upon stipulating.

Whereupon the court made the following order:

The appraisers appointed in this case to view, examine, and appraise the ship Panther, her tackle, &c., having made return of their appraisement upon oath, that the said ship Panther, her tackle, apparel, and furniture, now attached thereto, are worth the sum of three thousand dollars; and the anchor and chain cable belonging thereto, but now separated therefrom, (being taken up on the bar,) are worth the further sum of three hundred and thirty-two dollars; the whole together making the sum of three thousand three hundred and thirty-two dollars, and no more, at this time and place.

On motion of B. F. Hunt, esq., proctor for claimant, it is ordered, that the said ship Panther, her tackle, apparel, and furniture, and the aforesaid anchor and chain cable, be restored to James A. Potter, the owner of the ship Panther, her tackle, &c.; and claimant of the same, upon his entering into the usual stipulation, with approved security, in the sum of three thousand three hundred and thirty-two dollars, as the condition thereof.

The examination of witnesses was resumed.

H. S. Newcomb recalled, (examined in reply.)

H. G. D. Brown recalled, (examined in reply.)

Edward Wright sworn and examined.

Bond for costs.

SOUTH CAROLINA DISTRICT, *in admiralty.*

Be it remembered, that on the twenty-eighth day of March, A. D. 1846, and of the independence and sovereignty of the United States of America the 70th year, personally appeared James A. Potter and Lorenzo Potter, who, submitting themselves to the jurisdiction of this honorable court, bind and oblige themselves, and each of them, their several and respective heirs, executors, and administrators, to the United States of America, in the sum of three hundred dollars.

Whereas a case has been instituted in this honorable court, and is now depending therein—The United States vs. The ship Panther, her tackle, apparel, furniture, and lading.

The condition of the above obligation is such, that if the above bounden James A. Potter shall ratify and confirm all acts whatsoever his proctor shall do in the premises on his behalf; also shall personally appear in said court as often as he or they shall be thereunto required, and abide in the judgment of the court, or any other court to which an appeal may be made in this case, and pay all such costs, charges, expenses, and damages as shall be decreed, taxed, or assessed against them, or either of them; and in default thereof, do hereby consent that execution shall immediately issue against them, or either of them, their or either of their heirs, executors, or administrators, goods and chattels, to the value of the same, then this obligation to be void and of none effect, or else to remain in full force and virtue.

JAMES A. POTTER, [L. S.]
L. T. POTTER. [L. S.]

Taken and acknowledged in presence of—
MORRIS GOLDSMITH.

Stipulation.

THE UNITED STATES OF AMERICA,
South Carolina district.

Know all men by these presents, that we, James A. Potter, N. G. Bourne, and S. Mowry, jr., are held and firmly bound unto the United States of America in the full and just sum of six thousand six hundred and sixty-four dollars, to be paid to the said States, or their attorney; to which payment, well and truly to be made and done, we bind ourselves, and each and every of our heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with our seals, and dated the 6th of April, A. D. one thousand eight hundred and forty-six, and in the 70th year of our independence and sovereignty.

Whereas the American ship called the Panther, hath been seized and brought into the port of Charleston, charged with being concerned in the slave trade, contrary to an act of Congress of the United States, passed 20th April, 1818; also, to an act, passed 22d March, 1794; and to an act, passed 3d March, 1819; and also to another act, passed 10th May, 1800.

And whereas a libel or information, in behalf as well of the United States of America as of Charles H. Bell, esq., commanding the United States ship Yorktown, and the officers and men of the said ship, and of all other persons concerned, hath been filed in the district court for the district aforesaid, for a breach of the said acts:

And whereas the said James A. Potter hath appeared and claimed the said ship, her tackle, apparel, and furniture, as the sole owner thereof, and hath also prayed for a warrant of appraisement of the said ship, the Panther, her tackle, apparel, and furniture; and also of an anchor and chain cable, which was slipped from the said ship at Charleston bar, and which has since been recovered; and that the same might be restored to him; which warrant hath accordingly issued, and an appraisement of the said ship Panther, her tackle, &c., and anchor and chain cable, made thereon to the amount of the sum of three thousand three hundred and thirty-two dollars:

Now, therefore, the condition of the above obligation is such, that if a decree or judgment of condemnation shall be given for the said libellants or informants, and if the said James A. Potter shall within the space of twenty days thereafter pay into the court aforesaid the aforesaid sum of three thousand three hundred and thirty-two dollars, with all costs and charges attending the said seizure and suit, then, and in such case, the above obligation to be void and of none effect, or else to remain in full force and virtue.

JAMES A. POTTER, [L. S.]
N. G. BOURNE, [L. S.]
S. MOWRY, Jr. [L. S.]

Taken and acknowledged in presence of—
H. Y. GRAY, *District Clerk.*

Hearing of cause.

Monday, 13*th April*, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

THE UNITED STATES
vs.
THE AMERICAN SHIP PANTHER.

Col. Hunt was heard in behalf of the claimant of the Panther.
Mr. McCrady, the United States attorney, was heard for the United States.
Mr. Bailey was heard for the claimant.
The court then adjourned.

Tuesday, 14*th April*, 1846.

The court met, &c. Present, his honor R. B. Gilchrist.

THE UNITED STATES
vs.
THE AMERICAN SHIP PANTHER.

The United States attorney, Mr. McCrady, was heard in reply in this case.
The court then adjourned.

Testimony.

The United States district court, for the district of South Carolina, in admiralty.

THE UNITED STATES OF AMERICA
vs.
THE SHIP PANTHER, her tackle, apparel, furniture, and lading.

Libel of information under 2d section of act of 20th April, 1818, 3d Story's Laws U. S., page 1698; 1st section of act of 22d March, 1794, 1st Story's Laws U. S., page 319; 1st section, act of 3d March, 1819, 3d Story's Laws U. S., page 1752; and 1st section, act of 10th May, 1800, 1st Story's Laws U. S., p. 1780.

Evidence for the United States.

Henry S. Newcomb, (sworn)—is a passed midshipman in the navy; has been serving on board the Yorktown, on the coast of Africa, from October, 1844, to December, 1845; sailed from New York about the twelfth of the month of October, and from Kabenda the 22d December last; saw ship Panther at Kabenda; brought her into this port; he had orders from Commander Bell to take her to Providence, Rhode Island; she was captured on suspicion of being engaged or concerned in the

slave trade; the Panther had a small cargo on board at the time of the capture; the paper following contains a statement of the articles on board at the time of her arrival in Charleston.

178 pipes of (either salt or salted) water; staves for about 25 or 30 pipes; 300 (about) sticks of firewood; 186 grass bags of beans, average weight 66 pounds; 4 bbls. ditto, (several bags were destroyed by the rats;) 48 canvass bags of farina; 39 grass do.; 40 pipes of aguadiente; 2 spare ship's pumps; 1 bbl. of cooking utensils; ½ keg of pig's feet; 1½ bbls. of *of* pork, (Brazilian;) ½ bbl. of palm oil; 5 muskets and 8 boarding pikes; 2 long 6 pdrs.; a small quantity of round shot and grape; 10 (about) blank powder cylinders; 1 chronometer; 3 bbls. of vinegar; ½ bbl. of course salt; 1 Blount's coast pilot; 1 stove in cabin; 1 Bowditch; 2 lanterns; 1 quadrant; 1 binnacle lamp; 4 charts; 1 scale; ⅓ds of a box of tallow candles; galley and cooking utensils; 1 chest belonging to McIntyre, dec'd; 1 trunk belonging to Burns, dec'd; a lot of old spars; 3 topsails; 3 do., torn; 1 mainsail; 2 foresails; 3 top-gallant sails; 3 royals; 2 (torn) gibs; 1 flying gib; 3 topmast stay-sails; 2 lower studding sails; 1 top't stud'g sail; 2 top-gallant do.; 2 spankers and 2 spencers; 1 ensign, 1 pendant; 1 book of charts; a lot of old rigging; 4 binnacle compasses; 1 spy glass; a small lot of crockery and cabin stores; 2 anchors and 2 chain cables; 1 stream anchor and 1 kedge do.; 1 small chain cable; a part of a hawser, and 1 towline; 2 lead-lines and 2 leads; 1 long boat and 1 gig, with sails and oars; 1 tool chest; 1 medicine chest; equipments for guns.

Besides the foregoing articles, there were on board of the Panther, at time of capture, from 1,500 to 2,000 sticks of firewood; about 4 bags of beans, weighing each about 66 pounds; about 3 canvass bags of farina; about 15 gallons of aguadiente; about one barrel of Brazilian pork; about 4 blank cartridges; two small brass padlocks, which were on two lanterns; ⅓ of a box of tallow candles; these articles were used on board the Panther on her voyage to Charleston; there was also a glass lantern; the two lanterns mentioned had small brass padlocks on them; witness never saw before tin lanterns with padlocks on them; the lanterns were common tin, but new; the padlocks were brass.

The district attorney here produced in evidence the following papers, which were verified by the witness, as the papers found on board of the Panther, and delivered to him by Commander Bell, of the Yorktown, to wit: Three letters from James A. Potter to Capt. Clapp; one dated 22d Feb'y, 1845; one dated 30th January, same year; and one dated 15th March, of same year; the first letter not signed; register of the ship Panther, dated 21st February, 1845; crew list at New York, dated 21st February, 1845, with certificate of American consul at Cadiz endorsed thereon, dated 19th April, 1845, and a certificate of the Brazilian consul endorsed thereon of same date as American consul's; and attached thereto a crew list certified by the American consul at Rio, dated 4th August, 1845; a receipt for port charges at Rio, dated 4th August, 1845; a crew list in Portuguese, dated 4th August, 1845, at Rio, certified by the American consul; consular clearance of American consul at Rio, dated August 4th, 1845; the charter party between Joshua M.

Clapp and Manuel Pinto de Fonseca, at Rio, dated 10th July, 1845; 5 notes or letters from A. J. Decubra, at Cabenda, four of them to Capt. Clapp, and the remaining one to Manuel Jose De Mattos; of those to the captain, one dated 25th October; one 15th Nov'r; one 17th Dec'r, 1845; and the fourth without a date; the letter or note to De Mattos is dated 15th Nov'r, 1845; the note of 25th Oct'r is in English, and all the others in Portuguese; but the note of 17th Dec'r has a translation which was there when it was taken; a list of cargo and ballast signed by Capt. Clapp, and dated 15th Dec'r, 1845; a letter from Charles Nicholson to Capt. Clapp, dated at Rio Janeiro, 12th January, 1844; and the log-book of the ship Panther; copies of these papers will be found in the appendix hereto annexed, and numbered from one to seventeen inclusive.

Mr. Newcomb then proceeded to testify as follows: There were a hose and two spare pumps, besides the two pumps which were stationary; the spare pumps had all the necessary fixtures; witness has been on shore at Kabenda; knows Da Cunha; he is an agent for Fonseca; knows that Da Cunha was the consignee for the Panther; from his own knowledge cannot say that Da Cunha had barracoes for slaves at Kabenda; has had slave barracoes pointed out to him; knows of nothing being carried from Kabenda but slaves, ballast, and the lower class of Portuguese passengers; Kabenda is not a mart for palm oil; has never seen any on shore; not a mart for ivory or gold; there is very little trading close up in the bite, on the coast; south of Gaboon, there is not, to witness' knowledge, any trade in grain, gold, or ivory; farina is an article bruised or ground up from the casadra root, and used by the negroes on the coast; the Panther has two decks.

On his cross examination, this witness testified as follows: Witness was afraid he might use up all the firewood on board of the Panther, on account of the long voyage, and using nearly as much firewood in the cabin as in the galley; witness did not visit the buildings pointed out to him as barracoes, so that he does not know from his own knowledge that they were barracoes; judging from the manner in which slaves were stowed on board of the Pons, would suppose that the barracoas would contain from one to three thousand persons; is not certain of having seen more than one barracoa; the witness did not visit in person the barracoas, as being one of the officers that captured the Pons, and feared that he would not be properly received on that account; there was a Portuguese killed at Kabenda while witness was there, as was said; and the witness states that there was no legal authority there to prevent such *such* an occurrence; the King of Kabenda is, to all appearance, governed in a certain measure by the Portuguese merchants there; witness was ashore at Kabenda once for 4 or 5 hours; and at one other time for a few minutes; witness does not understand the Portuguese language when it is spoken; saw a man who accompanied Da Cunha, who spoke English and French, and had acted as interpreter between Capt. Clapp and Da Cunha; some of the negroes spoke English; saw a person who was either the King, or next in authority, who spoke English, and asked why they interfered in the slave

trade; witness saw another white man besides the interpreter above mentioned, who spoke broken English; the natives witness conversed with spoke broken English well enough to be understood; most of the negroes wore nothing but a piece of calico around the loins.

If the object of the Panther was to take slaves, she was better prepared than other vessels for that purpose, because she had a standing deck that was perfectly clear; he thinks that this standing deck was built with the vessel; she was an old East India trader; open boats with slaves on board, leaving the coast, have been captured, and the better prepared they are for taking slaves, so much the better; any other East Indiaman, built like the Panther, would have been as well prepared for taking slaves as the Panther, under similar circumstances; believes that all vessels which trade to the East Indies are prepared like the Panther; he has never seen any vessels engaged in the Rio trade for coffee; from information obtained on the coast of Africa, he has learned that the natives collect palm oil, for legitimate traders, in small quantities; that it is made from the boiling of the palm nut; where he has seen the ivory, in the *bite* of Benin and north of the equator, at the river Gaboon, the ivory was collected by the natives in small quantities; never saw more than a dozen teeth at a time on shore; there are factor[ie]s on the coast for the purchase of ivory and palm oil, but he does not know the mode of trade from personal knowledge, never having visited the factories; he has no other reason for supposing that palm oil is not as abundant at the south of the equator as at the north, than that he has seen no vessels at the south of the equator which he has known to be engaged in the palm oil trade; he has never seen any of the palm oil at Kabenda, except a half-barrel on board of the Panther, containing about 14 gallons of palm oil; he saw two small teeth on board of the Panther; this is all that he has seen at Kabenda of this article; he does not know whether elephants abound between the line and the Cape of Good Hope; there is an abundance of elephants at the Cape of Good Hope; from his knowledge of the trade or information gained, he cannot say whether the ivory business is carried on from south of the line to the Cape of Good Hope; he has seen vessels loaded with ivory and other articles of trade at the Gaboon, and north of the line on the coast, he has never seen more than one vessel having slaves on board; knows that it is not usual for slaves to carry shackles, from information which he obtained from an English officer having had charge of a slaver; there were no shackles on board of the Pons, a vessel with slaves, that he visited; he was on board of the Pons about 5 hours; she took 14 days to sail from the place of capture to Monrovia; saw no Americans on board the Pons; the Pons had no papers; the staves found on board the Panther he cannot tell whether they were new or old; some of them got adrift and were used as dunnage; saw the two tin lanterns in a box where they were stored; he had the box opened while taking an account of the stores; while at sea the lanterns were taken out of the box; they had padlocks on them with keys tied to the locks; he knows not from personal knowledge of there being any preparation to unload any part of the cargo of the Panther at Kabenda,

but he has understood from his brother officers on board the Yorktown, that the captain of the Panther, when she was captured, wished to send some of her cargo on shore, wood as he understood; is not certain whether the conversation referred to the landing of the rum or any thing else; the Yorktown left the Gaboon to sail to a port further south—south of Kabenda; on coming out of the river Gaboon spoke an English steamer, who informed Capt. Bell respecting the Panther; he does not know the nature of the information; when he went into Kabenda there was besides the Panther a French barque at anchor, and an English steamer was coming out and communicated with the Yorktown; the French barque referred to is the same barque that took the passengers from Kabenda; the French barque was not searched by the Yorktown, though she was suspected, both by the British and Americans, of being engaged in the slave trade; and on her coming out a gun was fired by an English boat, and the French barque came to, and was boarded or spoken by the officer of the boat's crew; he has been on shore at Loanda; it is a large and fortified place; Portuguese vessels of war were lying there; a fine harbor; the best on the coast; he was acquainted but with one gentleman at Loanda; he was a slave dealer, and told witness that he had made a great deal of money by the trade, and had travelled in the United States; believes he was a Portuguese, but he spoke the English language remarkably well; his name was Carpo; he does not know what business is carried on at Loanda; there are 10 or 12,000 inhabitants at Loanda, as he should think; perhaps more; there were small common dry good stores at Loanda; had 8 or 10 barrels of bread for the Yorktown baked at Loanda; the place is well fortified; he does not know what are the objects of trade between Europeans and Portuguese at that place, (Loanda;) he has been told that there is a communication by boats between Kabenda and the Congo; he saw several boats on shore; he does not know how they travel on land; or whether they travel there by land; he did not see many negroes at Loanda; the gentleman with whom he dined at Loanda, had negroes as domestics; did not see any vegetation there; saw several horses there; saw several soldiers on horseback; when on shore at Kabenda he visited at the house of the chief person (King) there; he was rather old; a negro; remained at this person's house about one hour; this house was separate from the others, built of bamboo; saw negroes about the house; a small plat of land near the house cultivated; never received any ill treatment on shore; always went on shore with his side arms; saw no troops or body guard there; saw no shops there, (at Kabenda;) saw persons working on the boats on the beach, repairing them; saw no other work doing there; his object in going ashore was to see the place; thinks he went on shore with Midshipman Brown; on board of the Yorktown he was informed that a Portuguese, taken on board the Pons, was assassinated on shore at Kabenda; the white persons taken on board the Pons were set adrift at Kabenda, except 3 or 4, who were shipped on board the Yorktown; there was no American on board the Pons when she was captured.

On his examination in reply, this witness testified that the Pons was

captured on the 30th November last; the Pons had sailed from Kabenda three days before that time, the 27th November; there was no legal authority to repress violence at Kabenda among the Portuguese there; there was no one in authority; about 100 Portuguese there; saw about half a dozen houses there, built in a commodious style; he never before saw padlocks on lanterns.

HENRY S. NEWCOMB.

H. G. D. Brown, sworn on the part of the United States. On his examination in chief this witness testified as follows: He is a midshipman in the United States navy; has been serving about 15 months on the coast of Africa; served on board two vessels, the Preble and Yorktown; has been in the navy a little over five years; visited Kabenda; went on shore; saw buildings there which were pointed out to him as slave barracoas; they were large buildings built of plank; as he thinks saw no slaves there, none that he knew to be slaves; understood that Da Cunha had charge of the barracoas; saw Da Cunha alongside of the Yorktown; he came to get permission to go on board of the Panther; this was after the capture of the Panther; witness was on shore at Kabenda about five hours; saw no business going on there; the houses laid out indiscriminately; no legal authority there that he knows of; saw no palm oil or ivory there, except the small half barrel of palm oil and the two teeth of ivory which were on board the Panther. Thinks that Capt. Clapp, either he or the mate, told him that he got the two teeth of ivory up the Congo river; these two teeth were Capt. Clapp's private property; he, Capt. Clapp, sold them to Mr. Newcomb and witness; witness was on board the Yorktown when she captured the Pons; there were a great many things thrown overboard from the Pons when she was captured; they picked up a small keg or box, but there was nothing in it; the other things he thinks were sunk; when about 25 or 30 yards from the Pons, they could see no negroes on board, as they were all under the hatches, but could smell them; never heard of trade in ivory or gold or grain, below the river Gaboon; witness came home in the Panther; Galenos is a slave mart, also Cape Mount, also Quitah and Kabenda. The Yorktown had anchored at Quitah, Cape Mount, and Kabenda; but Kabenda is the only place he went ashore at from the Yorktown; he went ashore from the Preble at Bissoa; this was formerly a slave mart; never saw padlocks to lanterns on board of any vessel until he saw those lanterns on board of the Panther; he saw one pretty decent looking man at Kabenda, who could pay his passage across the Atlantic; saw very few white persons there.

On his cross examination, this witness testified as follows: Never has been ashore at Loanda; has heard that it was a slave mart; has heard that it was a fortified place; our men-of-war generally touch at Loanda, going down the coast; he knows a great many ports on the coast of Africa where slaves are not to be procured, but they are in the possession of European, i. e. Dutch, Danish, &c.; at some of these places they trade in gold, i. e. at Accra and Elina; at others of these places

they have only garrisons; Elinia is a small place belonging to the Dutch, but there is a large port there. He has not had the means of knowing personally whether slaves may not be procured at the ports belonging to the Europeans.

There were two barracoons at Kabenda, one of them was about 250 feet long, two stories, including the ground floor; the roofs were pitched roofs, covered with straw or palm leaves; the barracoons were distant from the beach where they landed about 600 yards; witness did not go into the buildings, but went into the yards enclosing them; the fence enclosing them was about 6 feet high; he saw some boxes and bales in the upper part of one of these barracoons, but does not know their contents. Midshipman Newcomb and witness parted company at the King's house; the King treated them civilly; could see that the King was not pleased with the capture of the Pons; found at Kabenda a French barque; heard that she was to take passengers, but does not know that she had any; saw a great many negroes around the barracoons, but they were not confined; they were not at work; the population at Kabenda not industrious; witness did not make any inquiries there about palm oil; does not know whether the Panther was unloading at Kabenda when she was captured; has heard so from Capt. Clapp since the capture.

Examined in reply. He was not on board of the Panther as early as Mr. Newcomb; did not go on board the Panther until a day or two before she sailed. Mr. Newcomb was on board the Panther when Da Cunha came to the Yorktown to get permission to go on board of the Panther; Mr. Newcomb had then been on board 2 or 3 days.

H. G. D. BROWN,
Midshipman U. S. N.

The district attorney then produced the log-book of the ship Panther, previously verified above by the testimony of Mr. Newcomb, and referred to entries therein, by which it appears that the Panther sailed from New York, 24th February, 1845, bound to Cadiz; that she arrived at the harbor of Cadiz and anchored there the 19th March, 1845; that she laid at Cadiz until the 24th April, 1845, when she sailed in the afternoon of that day for Rio Janeiro, where she arrived on the 5th June, 1845; she laid at Rio Janeiro until the 7th August, 1845, when she sailed for the west coast of Africa, and on the 22d September, 1845, anchored in the Congo river; she laid in the Congo river until the 24th September, 1845, when she sailed for Kabenda, where she arrived on the same day; she continued at Kabenda until the 25th November, 1845, when she sailed from there for Ambrose, but put into the Congo river on the 29th November, 1845. She remained in the Congo river until the 11th December, 1845, when she sailed from thence, and arrived at Kabenda on the same day. The mate ends his log on the 12th December, 1845. On the 13th, 14th, or 15th December, 1845, the captain enters in the log the visit of the Yorktown, and her final capture.

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Evidence for claimant.

Nathaniel Bartels (sworn.) Examined by Col. Hunt. Was second mate of ship Panther in the first place; shipped at Rio Janeiro; ballasted there with salt water; knows this because he pumped the water. On the voyage from Rio to the coast, nothing occurred but some mutinous conduct of the crew; he understood at Rio that the Panther was going to Kabenda; he does not know how long the Panther was lying at Rio before sailing; Congo river was the first place the Panther made on the coast; the land low there; Point Padron situated at the entrance of the Congo river is a conspicuous point; when they first entered the Congo, did not go up more than 5 miles, as he thinks; not out of salt water. He does not know whether any papers were sent on board the Panther from the shore at Congo; a boat went ashore there from the Panther with a passenger; three canoes with natives came around the Panther while she laid there; a tackle was got out to hoist out the boat; does not know whether it was for the purpose of unloading; it was only used to get out the boat; the hatches of the lower deck of the vessel were not opened; there was nothing between decks but the spare rigging and water casks; all the ship's provisions and water were between decks. Fine weather while lying in Congo river; did not see any men-of-war; laid in the river from between 4 or 5 o'clock in the afternoon and 8 o'clock the next morning; can't say for certain whether they laid there one day; thinks they did lay there one day. The canoes which came around the Panther had provisions on board, such as goats, &c., and they supplied themselves there with fresh provisions. The ivory which the captain had on board was obtained at Kabenda, the palm oil at the Congo river. Saw plenty of palm nuts there; boats, large canoes, 20 or 30 of them, were coming down the river Congo daily, loaded with palm nuts. When they came out of the Congo river, they saw two men-of-war, the "Alert" and "Cygnet," while they were on their way to Kabenda. The Alert spoke and boarded the Panther; an officer with some men from the Alert remained on board the Panther about 10 minutes; the Panther had the American flag flying; arrived at Kabenda on the afternoon of the day that they left the Congo, anchored between 4 and 5 o'clock; saw on arriving at Kabenda the brig Genet, of Baltimore; also the barque Pilot, of Boston; the Genet was loaded with an assorted cargo, domestics, &c.; she came there from Rio, but he does not know whether the cargo was obtained at Liverpool or Rio. The Genet discharged her whole cargo at Kabenda; laid there between 6 and 7 months, as he was told by the mate of the Genet; saw her at Liverpool before he met her at Kabenda; and from the voyages which he, the witness, made in the intervals of time between that period and his seeing her at Kabenda, is satisfied that she was there 6 months; the Genet took back from Kabenda to Rio passengers; does not know how long after he arrived at Kabenda it was *after* before he saw an American man-of-war; thinks it was about 2½ or 3 months. To the best of witness' knowledge, it is usual for vessels carrying out assorted cargoes to remain there some months; his know-

ledge on this subject not much; he never was at Kabenda before this; the barque Pilot was lying at Kabenda a week after the Panther arrived there; does not know how long before the arrival of the Panther she was there; it was reported that the Pilot had been at another port previously; she communicated with the shore. Does not know whether or not there was an American man-of-war in sight when the Pilot sailed; thinks the Pilot left Kabenda in ballast. The first mate, from the time he left Rio on the voyage to Kabenda, was most generally intoxicated, and would give liquor to the men unknown to the captain. The first mate was put off duty after the arrival of the Panther at Kabenda, the reason was drunkenness and inattention to duty; after his, the first mate's, discharge, he went on board a British man-of-war, and claimed protection as a British seaman. The first mate left after the captain told him that he would put him in irons as soon as he got command again of his vessel. The British captain gave a receipt for the first mate; heard Capt. Clapp read it to him. Saw Da Cunha on board the Panther after the Americans had possession of her. A month after they arrived at Kabenda, the Panther was seized by the British vessel Cygnet; they were not molested by any vessel until then.

In the mean time the Panther discharged 60 pipes of aguadiente, the jerk beef they had on board, the farina, rice and beans, cargo which they had brought from Rio. The British kept possession of the Panther eight days; officers and men of the prize crew of the Cygnet were drunk most of the time; officers particularly; the British gave up the Panther because they found nothing to warrant her condemnation. About 4 weeks after this occurrence, an American man-of-war appeared at Kabenda; during this interval of 4 weeks, the Panther started for Ambrose, on the way went into Congo for fresh provisions. All the Portuguese on board the Panther were too sick to work the ship up to Ambrose; they had a head wind and current against her. At Point Ligua, up the Congo about 60 miles, the Panther took in farina, beans, fire wood, spars, and some bundles of staves belonging to old pipes; carried this cargo to Kabenda; an easier voyage from there to Kabenda than to Ambrose, on account of the wind and current being in their favor. The Panther took in some hogs, about 8, at Congo, averaging 150 lbs. weight; when they arrived at Kabenda this time, they commenced discharging immediately. The witness received orders from the captain to hoist out 70 pipes filled with salt water, that were placed right under the main hatch; understood from the captain while at Kabenda that they were going to take passengers from Kabenda to Rio; there was a French barque at Kabenda at the time, which actually did take some passengers from there; witness was ashore at Kabenda; saw a large building surrounded with a fence made of bamboos, &c.; Da Cunha lived in this building; witness was inside of it, and saw some boxes there; Da Cunha is a white man, and looked to be in good health; saw some negroes there whom he supposed to be free negroes. He does not know whether the vessels which he met at Kabenda got any return cargo. Witness saw nothing while he was on board of the Panther, nor did he hear any thing, to induce him to believe that she

came to Kabenda to get a return cargo of slaves; saw no preparations made on board the Panther for the accommodation of any slaves. While they were preparing to discharge at Kabenda, they were taken possession of by the American man-of-war Yorktown.

He saw no manacles on board the Panther for the confinement of slaves; had heard nothing on board the Panther about slaves, and therefore such a thing did not bear upon his mind; there was no alteration made of the Panther from her original build; did not see any thing in her different from any other vessel.

On his cross examination, this witness testified as follows: Witness's right name is Nathaniel Bartles; he was born in New town, Worcester county, eastern shore, Maryland; witness had a nick name on board the Panther—was called "Long." He had previously sailed in another vessel with two of the men on board the Panther, before the mast, named Peter Wilson and William Sherwood; these men were shipped at Rio. Witness went to Rio Janeiro in the schooner Hannah from Rio Grande, William Sherwood was then a shipmate of witness.

Witness shipped on board the Hannah by the name of Nathaniel Bartles. Wilson and Sherwood were both discharged on the coast of Africa. The consul made a mistake at Rio in setting down witness as belonging to Portland; witness was present at the time, and there were 2 or 3 other men present also; Capt. Clapp called witness Mr. Long. From Rio to the coast of Africa, the Panther had one cabin passenger, a Portuguese, and 2 other as passengers, also Portuguese, one of whom worked, and the other did not. Does not know what was the business of the cabin passenger; witness never heard him speak five words; he could not speak English. When they went into Congo the first time, they did not fire a gun.

The Portuguese passenger (cabin) went ashore at Congo next morning in the ship's boat, and returned to the Panther afterwards; the boat's hands being Sherwood, McIntyre, and the two other Portuguese; can't say positively how long they were gone ashore; thinks they returned to the Panther in the afternoon. They went ashore very early in the morning; did not see where they landed on the river; saw no settlement there; thinks it was between 3 and 4 o'clock in the afternoon that they returned. When they first went to Kabenda from Congo, is sure that nothing was discharged from the Panther for the first 3 or 4 days. There were some boxes on board, which were not the first things discharged; saw the Portuguese passenger after they arrived at Kabenda; he came on board of the Panther several times; once in a while he came after some things—small stores, which he had on board; believes that he was on board the Panther once or twice after he had taken his things away. The other two Portuguese went ashore at Kabenda; witness saw the cabin Portuguese passenger ashore at Kabenda; witness saw him at Da Cunha's; that the only place that he saw him ashore; witness was himself ashore he thinks 3 times; only saw the Portuguese cabin passenger once ashore. The first mate was not put off duty until after the discharge of the 60 pipes of aguadiente. When the Panther went up Congo river, there were five Portuguese on board as crew in lieu of

those discharged. The Portuguese cabin passenger not then with them. Does not know where the canoes were going to that he saw coming down the Congo; they were principally loaded with palm nuts; some sugar cane. The Panther was anchored in the Congo river; witness went ashore at Point Ligua; there were long houses there, which they called factories; all that he saw of them was, that people were living in those buildings; believes that they kept therein the stuff which they had taken—beans and farina; does not know how much stuff they took in; one day taking it in. The Panther got aground on a flat in the river, and had to lay there until the tide rose; the tide does ebb and flow at Point Ligua. Thinks that fresh water will be got 30 or 40 miles up the river; Point Ligua is 60 miles up; fired their guns twice while going up the river and at anchor; fired them to scale them. The Panther had 2 anchors on the bow—a kedge and a stream anchor. After they fired the cannon as stated, they loaded the cannon again with grape shot and canniste1; loaded also their muskets with ball. When witness shipped at Rio, the cannon, muskets, and boarding pikes were on board. The Panther returned to Kabenda and commenced discharging; this before the American man-of-war came in. Witness instructed to discharge remaining cargo and hoist out 70 casks to make room for ballast; does not know what kind of ballast was to be taken in; there were a few rocks on a point there, and besides these he saw nothing but sand for ballast. From Kabenda to Congo, and from Congo to Kabenda, the Panther had before the mast 10 men, cook, steward, captain, and witness. The cook was a Portuguese; the steward, he thinks, was an Irishman; the rest of the crew composed equally of Portuguese and Americans; five of each. The Pons came in while the Panther was lying at Kabenda. The captain of the Panther let her have the main sky-sail of the Panther; the steward above referred to had been on board the Pons, the previous voyage of that vessel, as he said; Capt. Barry commanded the Pons; saw Galleana once or twice on board the Panther; understood from the officers that he, Galliana, commanded the Pons. The Panther had two chronometers on board when she left Rio; there was but one on board the Panther when she was captured, which he understood had been sold to Galliano. The captain of the Panther let the Pons have one or two coils of rope before the Panther was taken possession of by the English.

NATHANIEL BARTLES.

Evidence for claimant.

Joshua M. Clapp—offered by Col. Hunt as a witness—objected to by the district attorney, on the ground that Capt. Clapp is charged with fitting out the vessel, and that no question can be asked him on his cross examination, without his replying that he cannot be compelled to answer it, as it will subject him to a criminal prosecution.

The objection to the competency of the witness overruled.

Joshua M. Clapp (sworn,) examined by Col. Hunt. He took com-

mand of the Panther 27th January, 1845, in New York. Does not think that he saw Mr. Potter more than a week previous to the time of his joining the Panther. His introduction to Mr. Potter as a ship master was accidental; they met in the counting-house of Williams & Sheldon, in Wall street, New York; they were at that [time] ship brokers. At the time witness joined the Panther there was no particular voyage in contemplation. Does not know how long Mr. Potter had then been the owner of the Panther. Had heard that Mr. Potter had owned other vessels previous to this time. The first voyage projected for the Panther was a freight of slaves for Cadiz. Witness has been going to sea 12 years the 9th day of the present month of April; he understands navigation. He received letters of instruction from Potter before sailing; several; some as regards the conducting of the ship while lying at New York; and one, if not more, regarding the management of the ship and the ship's business abroad. When he arrived at Cadiz, he delivered his cargo to the consignee; he took in there a part of a cargo of salt, and had remaining on board 33 boxes of sperm candles, which he took in at New York. He then sailed from Cadiz for Rio, consigned to Maxwell, Wright & Co. When he arrived at Rio, he sought out business for the vessel from the 5th of June to the 9th of succeeding month of July, 1845, when he made the charter with Manuel Pinto De Fonseca. He was hard at work all the time, looking out for business for the ship. The first time that the idea was suggested to his mind of the vessel going to Africa was, when he heard of this charter being in market. He does not recollect from whom he heard this. The brokers at Rio generally ascertain what business is in market, before the merchants or masters do. He was not negotiating about the charter party more than one day. He made only the common arrangements for carrying the charter into effect. The officers and crew that came in the vessel from Cadiz were discharged by their request at Rio. Had to ship a new crew at Rio. The crew were shipped at the American consul's at Rio; got a clearance also from the American consul at Rio. The charter party, heretofore produced in evidence by the district attorney, was here shewn to the witness, who stated that it was the charter party under which he sailed. He does not know whether the American consul knew that he was chartered, but he knew that witness was going to Africa. There was no remonstrance or warning given to him by the American consul that this was an illegal voyage. The charter party was executed the 10th July, 1845, and he sailed on the 7th of the succeeding month of August, as he thinks. He ballasted his vessel at Rio with salt water in pipes; one reason of this was, that other ballast could not be obtained there at that time. The casks were put on board on purpose for the water. He does not know whether water casks are valuable on the coast of Africa. The witness here stated that previous to sailing from Rio, the charterer instructed him, if convenient, to stop in at Zaire, and ascertain if there was any of his cargo wanted there; if so, to land it; if not, to proceed on to Kabenda.—(This testimony, in relation to instructions from the charterer, objected to by the district attorney; objection overruled.) There were no alterations made in the build of the Pan-

ther at Rio. On the voyage from Rio to the coast of Africa the crew was mutinous, and the mutiny was suppressed. The first land made on the coast of Africa was Point Padron; this land was made about 7 o'clock in the morning, and the Panther came to anchor when the sun was two hours high in the afternoon, inside of Shark's Point. Witness did not himself go ashore; but his Portuguese passenger, named Chaves, went ashore with four men; he does not recollect who the men were. The passenger left the ship for the shore soon after breakfast, and returned some time in the afternoon of the same day. Witness received a note from shore; he could not understand the note, but he understood from the passenger when he returned to the vessel that the Panther was to go to Kabenda. The Panther got under way the next morning for Kabenda; arrived at Kabenda same day. He was consigned to Da Cunha at Kabenda; Da Cunha was not there at the time; he was at Zaire, a place called Chamar. He, witness, laid at Kabenda from 24th September, 1845, until his capture by the British, discharging cargo as required. Witness attempted to get the Panther under way, bound to Ambrose, when the commander of the British sloop of war Cygnet came on board the Panther, and said he would detain her. The commander of the Cygnet put a prize crew on board the Panther under charge of a boatswain's mate. The British commander sent word to witness that he must still consider himself in command of the Panther; that he only sent the men on board to see that witness did not land any thing. His papers were examined by the English officer previous to his seizing the ship; thinks that all his cargo had been landed at that time, with the exception of 40 pipes of aguadiente; thinks that the British remained in possession of the vessel 8 days. The aguadiente was worth on the coast $80 a pipe. The English prize crew were drunk, but witness was allowed to go ashore on his parole; witness remained on shore about two days; witness attempted to return on board at about 8 o'clock in the evening of the day when he went ashore; and the prize crew forbade his return, threatening to fire into him. Witness is acquainted with the town of Kabenda; the largest building he saw there might be 100 feet long and 40 feet wide. It belonged to Da Cunha; was used by him as a factory or storehouse, and also as a dwelling-house. This building was built of bamboo, thatched with palm leaves, and elevated on piles 2 or 3 feet from the ground. He was in this building frequently; nearly every day while he was lying at Kabenda; there are no barracoons in the town of Kabenda. At Kabenda he has heard the slave barracoas are kept back out of the town; he does not know how it is at other marts; this is as he has heard; he never saw a slave barracon at Kabenda. After the British left the Panther, witness resumed the command of her, and sailed for Ambrose, but never reached it. The reason given by the British commander for taking possession of the Panther was, that she was on an illegal voyage. After seizing her, he said that there was nothing to warrant his suspicions, and he gave her up. The Panther did not reach Ambrose; went as far as the river Congo, and touched in for the purpose of getting fresh provisions. The water, at the entrance of the Congo, is salt, and becomes

less and less so, as the river is ascended, until Point Ligua is nearly reached, when the water becomes fresh. Witness succeeded in getting fresh provisions, but had to go as far as Point Ligua for that purpose. He does not remember the exact time that he laid in the river; he laid some 3 or 4 days at the entrance of the river before he went up it. He did not continue his voyage to Ambrose in consequence of the sickness of his crew; he had not well men enough to work his passage to windward; had to beat up to go to Ambrose. He took in a small quantity of articles at Point Ligua, i. e. beans, farina, fire-wood, and small spars for Kabinda; upon the conditions of taking these things he was released from his voyage to Ambrose. He met at Point Ligua an agent of Da Cunha, whose name he does not recollect; he was the person that released him from going to Ambrose. There are three factories at Point Ligua; it is not a considerable settlement; he means by factories, storehouses, used for the purpose of storing goods. The whites, on such parts of the coast as witness is acquainted with, trade with the coast negroes, and the coast negroes trade with the bushmen. Witness carried the stuff which he took at Point Ligua, together with the aguadiente, to Kabinda. His guns were loaded and his arms were got in readiness to resist any attack from the natives; he has heard of two or three instances of their boarding vessels to get plunder. His armament not sufficient to combat with any armed vessel of Britain or America on the coast. If boats from armed vessels had come up the Congo river to take him, he could not have escaped. The Panther is not a remarkable sailer. When he returned to Kabinda a second time, he found there a French barque and a British steamer; the British steamer went out; communicated with an English vessel outside; returned and boarded the Panther. This [was] the same steamer that had boarded the Panther previously; and the English officer at this time said that he came on board to see whether the lower deck of the Panther was mentioned in the register. The register produced in evidence by the district attorney here exhibited to witness, who verified the same as the register of the Panther.

The British officer, on ascertaining that the Panther was properly registered, released her; two or three days after this the Yorktown came into Kabinda. At the time of the arrival of the Yorktown, he had landed a portion of the cargo taken in at the Congo; he had landed the spars and was landing firewood. Before the Yorktown came into Kabinda, he was told by his consignee that he was to take passengers in the Panther for her return voyage to Rio. The French barque, then at Kabinda, took some or all of the passengers that were then there. Thinks if the voyage contemplated at the time of his seizure had been carried out, it would have been a source of profit to the charterer, and gives the following exhibit of the probable profits of the Panther in favor of the charterer:

The probable profits of the Panther.		*In favor of the charterer.*	
Expenses.		*Receipts.*	
Six and a half months charter, at $1,750 per mo.	$11,375 00	Aguadiente, 100 pipes, a. $80	$8,000 00
Costs of aguadiente, at Rio, 100 pipes, a. $20 each	2,000 00	Value of the provisions at Kabenda	3,000 00
Probable costs of farina, rice, beans, and jerked beef	750 00	100 passengers, a. $75 each	7,500 00
	$14,125 00		18,500 00
			14,125 00
		Balance in favor of charterer	$4,375 00

If he had been allowed to proceed on the voyage from the commencement of the charter party at Rio, and return there, the voyage would not have more than 6 months and a half. The price of aguadiente at Rio was $20 a pipe, and this article sold on the coast for $80 a pipe. Salt provisions are high on the coast—rice and jerked beef sell well there. From information that he received from his consignee, he understood that the price of passage money was $75 a head, the passengers to find themselves. There is a great deal of money in circulation at Kabinda; a common thing to see a negro have ten or a dozen doubloons; doubloons, johannes, and dollars are in circulation there. No proposition to carry back negroes to Rio was ever made to witness at Rio, or on the coast, with the exception of one made to him by a British officer in his (witness') cabin, and that proposition was, that he should make arrangements on shore for putting on board a Brazilian schooner then lying at Kabinda 400 negroes, and allow the British to take her with the negroes on board; that, on these conditions, the British would allow the Panther to go to sea with 2,000 negroes, and agree not to molest her; this proposition was made to witness by the first lieutenant of the Cygnet; his name the witness does not recollect. The witness does not recollect his reply to the British officer, and he does not know whether the proposition was made in joke or not. Neither his charterer nor consignee, nor any person, on their account, ever made any proposition to him to take negroes on board of the Panther. He had no arrangements or convenience on board of the Panther more than any other vessel of her class has to take slaves on board. He knew that it was piracy to be actually concerned in the transportation of negroes. He never made to his mate, or any of his crew, any proposition to be engaged in a slave voyage. It is very common at Rio to enter into such charter parties as the Panther's; there was the Lucy Pennyman, which went on to the east coast of Africa, brig Stuben, brig Genet, and the barque Pilot, which were under similar charters as the Panther's; these last mentioned vessels all went to Kabinda. Vessels often lie at Rio two or three months without being able to obtain employment. Sold one of his chronometers to a person whom he supposed to be supercargo to the barque Pons, which was lying at Kabinda at the time that the Panther was there. He was to have received $300 for the chronometer. When he sailed for Ambrose he left the Pons lying at Kabinda. He supposed that he would find the Pons there on his return, but she had sailed before he got back. Witness

had one chronometer of his own, and one that was hired by the owners, and which was brought back to this port. The chronometer sold by witness belonged to witness. Witness let the Pons have a sky-sail, a couple of coils of small rope, and a sky-sail yard, and received, in payment, coffee and tea. He understood that the reason why he did not take a full cargo from Rio was, that the charterer had received advices from the coast of Africa that a full cargo would not be required. Witness was ready to take a full cargo. The extra pumps and hose on board of the Panther witness placed there for the purpose of ballasting the ship, that is to say, of pumping water into the vessel; they were old pumps, and the reason of putting them on board the Panther was, that the stationary pumps were in bad order, one of them in particular; very common to ballast with salt water at Rio Janeiro. He did not put in a full cargo of salt at Cadiz in consequence of the bad condition of the rudder of the Panther. He had very heavy weather from New York to Cadiz, and presumes that the rudder was badly sprung during that passage. Witness knows that Fonseca is an importer of dry goods, and that he has a very large establishment at Rio Janeiro, a wholesale dry good store. The chief mate of the Panther was drunk while lying at Kabinda, and frequently drunk on the voyage over; from his drunkenness he rendered himself inefficient to discharge his duty. The crew, which he, witness, discharged at Kabinda, went on board the Cygnet. Witness paid them off. He made a declaration of his discharging the men before the Governor at Kabinda. This paper, dated at Kabinda, November 16th, 1845, produced in evidence, and shewn to witness, who verifies the same as signed by Francisca Franque, Governor of Porto Rica, (a copy of this paper, numbered 18, is to be found in the appendix hereto annexed.)

There are 4 towns besides Kabinda within 5 miles of Kabinda, called, altogether, Porto Rica. The four towns referred to are Prince Sam's town, Prince Jack's town, Prince Bill's town—the other prince's name he does not recollect. These towns are subject to Francisca Franque, who is himself subject to a King that resides somewhere up the Congo. Francisca Franque told him that he and two brothers were educated in Brazil. He, Francisca, was black, a full blooded African, something over 6 feet high, a well educated man. Francisca occupied the only two-story house in the place; it was not very large; saw negroes about it. Witness has drunk wine with Francisca. The Portuguese at Kabinda use farina for bread, jerk beef, salt provisions, &c. The climate about the same as Charleston in summer. When he paid his crew off at Kabinda, they were on board the British man of war Cygnet. The native authorities at Kabinda punish crime; saw a place where they impale criminals, and the instrument with which they are impaled is a sharp piece of iron, on which they are made to sit.

J. M. CLAPP

This witness (J. M. Clapp) was then cross examined by the district attorney.

The district attorney produced to the witness the following letters ad-

dressed to him, to wit, one dated 22d February, 1845, without a signature. The witness stated that he presumes from the handwriting that this letter was written by Mr. Potter, the claimant; also a letter to him, dated Jan. 30th, 1845, and one dated March 15th, 1845; these two last letters the witness stated were signed and written by Mr. Potter, the claimant; also nine other papers, which were produced in evidence by the district attorney on his examination of Mr. Newcomb; also the register of the ship and the charter party, the same previously produced in evidence. All of these papers the witness verified as genuine, and as having been in his possession, endorsing thereon the initials of his name. The witness then stated that he had been three times at Rio Janeiro; the first time was from the last of August, 1843, until early in January, 1844. He went there as mate on board of the brig Ganneclift, an American vessel; this brig sailed from New York under the command of a Capt. Charles Nicholson, and the said Nicholson owned half of her, and a man named Dixey the other half; the witness afterwards, about the 1st of December, 1843, took command of said brig Ganneclift at Rio, and left the former captain at Rio when he sailed from thence; he does not know why the former captain gave up the command of that vessel. Witness went to the coast of Africa in said brig as her commander; he went to Kabinda; the cargo he had on board was some dry goods and aguadiente. Witness sold the brig at Kabinda—that is, he made the transfer there; he delivered the brig to a man named Lopez, whom he first met at Kabinda; he never saw the brig again after she left Kabinda. Witness was at Kabinda when she left, but he did not see her at the time of her departure; he does not know what cargo she carried. Witness arrived at Kabinda *of* a Friday night about 10 o'clock, and delivered the vessel next morning. Lopez came on board the vessel with a letter, and delivered it to witness before he had risen. The next Sunday following, about sun down, the vessel sailed, as he has understood; he heard that she left for the coast of Brazil; heard that she carried slaves.

The district attorney here produced in evidence a letter from Charles Nicholson, dated at Rio Janeiro, 12th January, 1844, directed to witness, which letter the witness stated contained one of the orders under which he delivered the vessel, (a copy of which letter is to be found in the appendix hereto, and numbered 16.)

The witness had no order for the delivery of the vessel from the other owner, as he *he* had previously transferred his right to Nicholson. Thinks it was on the 9th or 10th of January, 1844, that he left Rio in the brig for Kabinda; the letter from Nicholson was written after witness sailed, and sent out in the brig Monte Video to Kabinda. Witness was on shore at Kabinda the whole of the Sunday on which the brig sailed from there; he saw no slaves. The crew of the brig Ganneclift went on board of the Monte Video. Witness remained on shore; he thinks he remained at Kabinda about two months, perhaps more; he arrived at Kabinda in the month of March, 1844, and staid there until the succeeding month of May, when he left in the Monte Video, and went from Kabinda to Savgatauga; thence to the river Gaboon; thence to

Victoria in the Brazils. The Monte Video had no cargo of any consequence, or any passengers, except witness and his crew of the Ganneclift. A man named Jason L. Pendleton commanded the Monte Video at that time. The Monte Video lay at Kabinda two months, if not more; presumes that the cargo of the Ganneclift was discharged at Kabinda on the Saturday of her arrival, and the next day; she was consigned to Lopez; she went to Kabinda under a charter; the name of the charterer was Reberoso; the charter was for the voyage, amount $6,000. The Ganneclift before this cost $1,800 at New York, and repairs put upon her, which brought her price to $3,500. She then sailed from New York for Lisbon about the 20th May, 1843, and thence for Rio, where she arrived in August next succeeding. After witness arrived at Victoria, as he has stated, he went thence to Rio, which made his second visit to Rio; he, at that time, arrived at Rio about the 1st of July, 1844, and remained there until the 10th of August in that year. He then left Rio in the barque Herschel for Boston; he had then something over fifty days passage. Witness, after this, took charge at Boston of the schooner Enterprize, remained in charge of her a month or six weeks, and then left her on account of ill health; he got $100 a month for taking out the Ganneclift to the coast of Africa. The Ganneclift was not ballasted with water; she might have had 8 or 10 tons of stone; this, with her cargo, served to ballast her. He was directed that when he went into the river Congo in the Panther, he should communicate with some person, but does not recollect the name of that person; the direction referred to was verbal. The Portuguese passenger that witness had with him had previously resided on the coast; witness had received a note by this Portuguese passenger from Da Cunha. The Portuguese passenger went ashore at Chamar, and there received the note for witness from Da Cunha. Witness did not expect that the Portuguese passenger would meet Da Cunha there. The Portuguese passenger was acquainted with the man that chartered the Panther; he cannot recollect that he told the passenger on going ashore at Chamar to go to any particular person; supposes he might have told him to go to the agent of the charterer, and presumes that from the Portuguese passenger's residence on the coast, and supposed acquaintance with the charterer, he knew who the agent was. He did not tell the Portuguese passenger on going ashore at Chamar to look for Da Cunha. If any person had proved himself at Chamar to the satisfaction of the witness of being the agent of the charterer, he would have taken the responsibility of landing the cargo there—i. e., whatever of the cargo might have been asked for by that person. He could not have got in the Panther nearer the beach at Chamar than 3 miles. He had heard of Chamar before he went into the Congo river; he does not know from whom he heard of Chamar; he had been on the coast before, and might have then heard of that place. Witness did not go ashore himself at Chamar, because he did not wish to leave his ship; thinks he asked the passenger to go for him. He does not remember the name of the agent of Da Cunha at Point Ligua; thinks he had a letter for him from Da Cunha. Witness went up in the ship's boat to

Point Ligua before he took his vessel up; he left his vessel lying about 10 miles from the mouth of the river; before he left in his boat for Point Ligua, supposes he had been lying in the river 3 or 4 days; thinks he was absent from his vessel about 48 hours, probably more; supposes he left his vessel early in the morning. He took the small boat of the ship; he recollects the name of only one man that he took in the boat with him, which was McIntyre. Witness spent part of a night at Point Ligua, and was part of a night getting there; his vessel remained at anchor while he went up to Point Ligua. It would have been very natural for him to tell the agent at Point Ligua that he was bound to Ambrose, but he does not recollect that he did so. Witness did not pay his passage on board of the Monte Video, but it was paid for by Lopez; he does not know the amount of his passage money. The passages of the crew of the Ganneclift were paid for also by Lopez. Lopez put the provisions on board of the Monte Video for witness and his crew. Lopez provided for them. The Genet, which he saw at Kabinda was chartered by Fonseca; the same person that chartered the Panther. He does not know who was the charterer of the Pilot. The consignee of that vessel at Kabinda was a man named Bastos. Bastos was a resident of Kabinda; he had a factory *factory* there; Fonseca was the charterer of the brig Sterling also; witness does not know positively that the Pons was chartered; witness never had a supercargo on board of his vessel when she was a general ship; it is not customary to have a supercargo on board of a general ship to the coast of Africa; witness sold his chronometer to Galliano, considering him as the agent of the captain of the Pons who was sick; the charter of the Panther was the only charter witness ever made; this the only charter which he ever had at Rio to make; he has seen aguadiente sold on the coast of Africa, at Kabinda, for $80 a pipe; it was paid for in money; witness made his calculation as to the quantity of the provisions on board the Panther from the bill of lading, and had reference to that bill of lading in his estimate of the probable profits of the voyage of the Panther; this bill of lading, which purports to be of goods shipped from Rio to the coast of Africa, produced in evidence and verified by the witness, (a copy of this paper, numbered 19, to be found in the appendix hereto;) it appears by the bill of lading that the cargo of the Panther did not belong to the charterer; on the bill of lading, among other articles, is one case of sundries; in the statement of probable profits of the voyage of the Panther, he values the jerk beef at 4 times its cost, which makes 12 cents; he estimated the farina by the bag; at Rio farina was worth $1 a sack, and then valued it on the coast at 4 times the cost; valued the beans at Rio at $1 per sack, and on the coast at $4; valued the rice at $2 $\frac{50}{100}$ at Rio, and 4 times that amount on the coast.

Francisca Franque, at Kabenda, did not require an interpreter; he spoke English and Portuguese.

This witness, examined in reply by Col. Hunt, says, that Chamar is the first port on entering the river Congo, and is the only place on the river Congo until Point Ligua be reached, so far as witness knows.

Da Cunha has agents at Point Ligua, and also at Chamar, as witness had understood. There is another person at Kabinda, named Reman, who has an agency at Point Ligua. The Ganneclift was in no manner whatever connected with the Panther. After he took command of the Panther, and before the projected voyage to Cadiz, there was an offer for a cargo of lumber to Buenos Ayres or Montevideo. It was supposed that the cargo to Cadiz would pay better, and this was the reason why the voyage to Montevideo or Buenos Ayres was not undertaken. When the Ganneclift was delivered to a foreign power, all her papers and national flag were removed.

J. M. CLAPP.

Henry M. Gray, (sworn)—examined by Col. Hunt: His occupation is that of a mariner; born in Philadelphia; has been at Rio and the west coast of Africa; rocks and stones of any kind are very difficult to be obtained at Rio for ballast; has seen vessels at Rio take in water casks to be filled with water for ballast; has done this himself on the coast of Africa; has done it in Charleston, and seen others do it; would not think it a suspicious circumstance. Witness has been at Rio 2 or 3 times, and each time that he has been there has known vessels to be chartered at Rio to go to the coast of Africa and back to Rio; or to go on a charter to the U. States, thence to Europe, thence to Rio, and from thence to the coast of Africa, and back again to Rio. Has seen vessels taking in at Rio for the coast of Africa aguadiente, rice, bread-crackers, codfish, and dry goods. When he, witness, was on the coast of Africa, great profits were made on such goods. In the vessel witness was in, goods were delivered in small quantities along the coast of Africa at the settlements. They would deal with the fishermen residing at the settlements on the beach. These settlements would vary in size from 20 to 1,000 huts. The greatest bulk of articles sold on the coast is rum, tobacco, and cotton goods. West India rum is worth at home from 35 to 40 cents, and it was sold on the coast of Africa, when reduced to first proof, at $1 $\frac{10}{100}$ to $1 $\frac{78}{100}$. The greatest quantity of palm oil on the coast of Africa is to be obtained between the latitudes of 6° north and 6° south. The palm oil particularly abounds in the Gaboon river and Cameron river. Witness has never been south of the equator. When coming down the coast of Africa from the north, a little of the palm oil is obtained at Monrovia, and it increases in abundance as you go down to the equator. Palm oil is bought in quantities, from a pint to a puncheon, according as the negroes have it for sale. In European settlements it is obtained in large quantities. Grand Jaques, a large native town of about 8 or 10,000 inhabitants, is the first place where palm oil is obtained in any very large quantity. The nearer the equator is approached, palm oil becomes more abundant. Large quantities are exported from Elmina, Axim, Saconde, Cape Coast Castle, and at Arcra, where there are three settlements belonging to the English, Dutch, and Danish. Witness was on the coast of Africa on the voyage referred to between 9 and 10 months; saw large vessels on the coast. He was on board one barque which was a double

decker. The Sterling, an American vessel, belonging to Salem, was chartered at Rio in the summer of 1843, to go to the coast of Africa; does not know who chartered her. The reason of high prices being given for charters to the coast of Africa is that it is a very unpleasant voyage. He never knew a person who had gone once to the coast of Africa, and up the rivers there, who would be willing to go a second time. He knows of the Genet being chartered at Rio to go to the United States, then to Europe, from thence to Rio, from Rio to the coast of Africa, and back again to Rio. Maxwell, Wright & Co. are merchants at Rio. Has known the brig Pulteney to come from the coast of Africa to Rio. Witness has no acquaintance with any of the parties to this suit; heard Mr. Potter, the claimant, saying that the Panther had been seized for an unlawful voyage, and he, the witness, then offered his services to testify as to the course of business at Rio and on the coast of Africa.

The shore along Rio is muddy, filthy stuff, and sand ballast is not to be obtained there. Ballast at Rio is sought for. Witness was there twice with sand ballast, and it was immediately bought up and carried away by the purchasers.

On his cross examination by the district attorney, this witness testified, that he was mate of the brig Liberia when he visited the coast of Africa in her. Witness has never been at the river Gaboon or the river Camerone, and has never been as far south as the river Camerone. The most eastern port that he has been at on the coast of Africa was Annamabec, which is 20 or 30 miles to the east of Accra. The brig Genet was chartered in July or August, 1844; he does not know who chartered her. Witness was at Rio in the summer of 1843, and did not see Capt. Clapp there; does not remember the brig Gannecleeft.

HENRY M. GRAY.

Daniel Baxter, (sworn)—examined by Col. Hunt: He is a mariner in the merchant service; commands the Arethusa. Witness has been once at Rio. It is usual for American vessels to get charters at Rio for the coast of Africa and back again. He knows of one vessel, the Z. D., belonging to his owners, that is now on a voyage from Rio to the coast of Africa. Charters for voyages from Rio to the coast of Africa are profitable, because they are unhealthy. The Z. D., the vessel above referred to by witness, is a fine vessel, worth $18,000. She is what is called a double decker vessel. Witness has no acquaintance with the parties to this suit; he never knew Mr. Potter, the claimant, until yesterday. From what he saw at Rio, should not think that ballast could be easily obtained there; not a suspicious circumstance to ballast with water; he, the witness, has, himself, known water used as ballast only in the West India trade.

On his cross examination by the district attorney, this witness testified, that as he has known the ballasting with water in the West Indies, it is, that the casks would be carried there, filled with water, and then sold as empty hogsheads for molasses.

DANIEL BAXTER.

Thomas G. Munro, sworn: Is a ship master; has been acquainted with navigation some 15 years; has been at sea some 21 years; has been at Rio Janeiro and in Africa; has known vessels chartered at Rio Janeiro to go to Africa—he means American vessels; they generally get pretty well paid, more than on ordinary voyages. Vessels from the United States frequently carry cargoes to Rio Janeiro, and there discharge them. They then require a freight. Cargoes for the United States have their seasons; frequently vessels lie at Rio when the coffee crop is not ready, and take cargoes to while away the time to Africa. It depends upon circumstances to what point on the coast of Africa they go, and where they return to. Sometimes they return to Rio, and sometimes to the United States. When they return to Rio, they most usually come in ballast. They sometimes bring passengers from the coast. They generally carry from Rio aguadiente, bales of manufactured Brazilian tobacco, some little flour, at times rice, beans, and farina; does not know the reason why high prices are paid for the chartering of these vessels, but knows that high prices are paid for most charters. Most generally the voyages from Rio to Africa are considered as sickly voyages. They ballast with any thing convenient that they can get for the voyages from Rio to Africa—sometimes with sand, and almost an every day occurrence to ballast with water. He has ballasted his own vessel with water, to go from Charleston to a northern port. The convenience of this ballast is, that it is very easily discharged, economical, and clean. The time of remaining on the coast of Africa depends upon circumstances. Witness has remained there five months. From 20° north to 20° south, there must be some ten or twelve white settlements. There are Gambria, Rio Pongo, Sierra Leone, Galenas, Cape Mount, Messerado, or Monrovia, Little and Great Bassa, Cape Palmas. Witness has been at Monrovia; it is settled with free blacks from the United States, under the auspices of the colonization society. There is a man there from Charleston, named Johnson, who was Governor at Little Bassa. Monrovia is distant from Galenas from 100 to 200 miles. The land communication is by foot on the beach. Galena is a slave settlement, but they do not sell negroes there; they export them themselves. The free blacks at Monrovia communicate with Galena. The best mechanics that leave the United States are employed at the slave factories. A great many free negroes from Monrovia prefer living at the slave factories; knows a washerwoman, who was sent from Norfolk, who has bought slaves of her own at Galena, and resides there. They pretend to carry on a government at Monrovia similar to that of the United States; has seen vessels with slaves brought into Sierra Leone. They place them in an asylum for liberated Africans, then distribute them among the colonists as apprentices. Has known them taken as apprentices, and in less than 20 days they have been back at Galena ready for a new trip. The British vessels of war on the coast of Africa search as they please American vessels. Witness left Sierra Leone some time in July, 1842; was brought to by an English brig of war; was fired into and obliged to anchor in 70 fathoms of water, at 5 o'clock

in the evening; was examined, and detained until the following morning; then permitted to depart. In ten days afterwards he was boarded by another British cruiser; the hatches of his vessel taken off, contrary to his consent, examined, and allowed to depart. He showed his American papers before his hatches were taken off. Witness was near 5 months on the coast; traded from port to port; business is sometimes much delayed there; has been there 21 days, without being able to discharge any cargo, on account of the surf; at other times longer, for the want of a purchaser. He lay at Galena 3 or 4 weeks on a stretch. He was examined very frequently—by the British altogether. He sold at Galena leaf tobacco, pork and beef, and lard and New England rum; also domestic goods. Negroes are bought with merchandise, such as rum and tobacco. In the interior of Galenas, slaves are raised expressly for traffic. They are brought down to Galenas by water communication, sometimes by land. In all cases that he knows, they are bartered for merchandise. In Galenas, the white people use some as domestics, and some are confined for transportation. Quite a common occurrence for vessels to retain and sell their cargoes at slave establishments, without themselves being concerned in the slave trade. It would be a good business to the charterer for his vessel to be chartered at Rio to carry a cargo to the coast of Africa and return in ballast, or whatever of a lawful cargo that might be offered—the amount of the charter party for a moderate sized ship being $1,500 or $2,000 a month. Has heard of Fonseca and Galliano, and that they have been engaged in the slave trade; this he does not know of his own knowledge, but knows that they are engaged in other merchandise. A pipe of aguadiente is worth from 100 to 200 per cent. more on the coast of Africa than at Rio, according to the demand. He has realized large profits from the sale of provisions on the coast of Africa; firewood is difficult to be procured on the coast of Africa.

Galliano once chartered the brig Lancet, of Charleston, belonging to Mr. Pezant, to go to the coast of Africa, south of the equator; understood Pezant was handsomely paid. The Lancet made the voyage, and returned to Havana in ballast. Not a difficult voyage from Rio to Kabinda; a much longer voyage to go from Havana to Kabenda; they then very frequently make the Cape de Verd islands on their course; this not a departure; all in the way; Kabenda a well known trading place on the coast, a place where American vessels frequently take cargoes during the dull season at Rio, and return thence to Rio. On their return to Rio, they take a cargo of coffee for the United States.

Witness examined by Mr. Baily, (for claimant:) A great demand on the coast of Africa for provisions and rum; these articles most generally sell for an enormous profit; at times the demand very great; a very profitable trade may be carried on legitimately along the coast of Africa, without being engaged in the slave trade. Witness has himself been engaged in this legitimate trade. They sell provisions from Gambria to the Cape of Good Hope. Witness carried empty casks from Sierra Leone along the coast of Africa, and had them filled with palm oil. Witness has carried passengers from the coast of Africa to the United

States, and along the coast from one port to another. There are frequently crews landed on the coast who are anxious to return to the Brazils or the United States. Witness has brought passengers home from the windward coast; has made money by them. He has been offered $1,000 to carry one to land him at Malaga or Cadiz; but his orders forbade; he has afterwards carried the same person to Philadelphia.

(Again examined by Col. Hunt, for claimant:)

Commercial transactions are carried on between Galenas and London, New York and Cadiz; he has carried bills himself on these places.

(On his cross examination by the district attorney, this witness testified as follows: The southern port to which witness has gone on the coast of Africa is cape Palmas; he has never gone south of that along the coast. Witness has been but once on the west coast of Africa on a trading voyage; he then commanded the Kathleen of Baltimore; he sailed from Philadelphia for Sierra Leone, consigned to himself; both supercargo and captain; his return cargo was about 20 tons of Cam-wood, 6 or 8 casks of Palm oil, old copper, and old rigging; each cask would contain about 120 or 130 gallons; the witness would buy a cask at a time, and return an empty cask which he had on board of his vessel; the currency was dollars and cents; used to get in return for merchandise on the coast, Spanish and Patriot doubloons, Portuguese Johannes, Spanish dollars, and some American half-dollars; as he traded, he would take in some articles before he unloaded; never went up any of the rivers except the Sierra Leone, but kept on the coast; the return cargo which he brought, was not a full load; whatever he bought on the coast he brought to the United States; his principal profit was on the goods he carried out; the bills of exchange referred to by him above he procured at Galenas. He visited two other slave marts besides Galenas, to wit, Cape Mount and New Sestros; the latter since broken up; both were kept by . At these factories, the slaves were held by the proprietors or factors; they were agents for individuals in Cuba, Rio, and Porto Rico. Witness carried a little freight along the coast, and made money by carrying passengers there; he never heard on the coast of Africa of Kabenda being a slave mart.

THOMAS G. MONROE.

The testimony for the claimant here closed.

Evidence, in reply, for the United States.

Henry S. Newcomb, (recalled.) Examined by the district attorney. From the conversation of the mate, Bartles, with witness, and other reasons, he is satisfied that Bartles is not his real name; the mate wrote a letter to his friends after his arrival here, in this port, and did not sign his name to it, and there was no direction on it. Witness allowed the mate to keep the letter, and it was not sent, to witness's knowledge; the mate had witness's permission to send it; the witness regarded this circumstance as evidence that Bartles did not intend that he should know his real name, and created a suspicion in his mind that there was something wrong, and he did not, therefore, believe that Bartles was his

real name; Bartles has told so many stories to witness about his name, sometimes in jest, sometimes in earnest, that it is doubtful what his real name is; the opinion of the witness is, that his name is not Bartles. The mate, Bartles, told witness that the spare pumps and gear, that is, the gear to the spare pumps, was fitted on her voyage from Rio to the coast of Africa.

(Cross examined by Col. Hunt.) The original stationary pumps, during the passage of the Panther to Charleston, had become choked with beans and sand, and witness put one of the spare pumps in the place of one of the stationary, but it proved of no use, as he could not fit it properly; it was on this occasion that the mate told him of the gear having been fitted on the passage from Rio to the coast of Africa.

HENRY S. NEWCOMB.

H. G. D. Brown, (recalled.) Examined by the district attorney. The mate Bartles told witness that his name was Long; witness asked him one day to tell him his real name, and he said his name was Long. The barracoon that witness saw at Kabenda, the one that he noticed particularly, was built on the side of a hill; the highest part of the barracoon was ten or twelve feet from the ground, the lowest part was about four or five feet from the ground; the piles on which the barracoon, referred to by witness, was erected, were 6 or 8 inches apart from each other; the building rested on larger piles, and these smaller piles were between; the upper ends secured to the house and the lower driven into the ground; within these piles were other posts supporting the building; those posts had a black greasy appearance; there was a negro man tied to one of those posts; the negro was there when witness passed the building the first time, but on his return he was gone.

H. G. D. BROWN.

Edward Wright (sworn.) Examined by the district attorney. Witness shipped on board the Panther at Rio Janeiro; the Panther had on board about 200 casks, including the aguadiente; the Panther sailed from Rio for the coast of Africa with 80 or 90 empty casks; about 30 of the empty casks were landed at Kabinda; all of the rest of the empty casks were filled with water at Kabinda for ballast; the Panther did not discharge, at Kabinda, any of the water brought as ballast from Rio; the casks they filled with water at Kabinda were in addition to what they had on board when the Panther started from Rio; when witness went on board the Panther at Rio, they had finished filling the water casks there, and nearly all the cargo was on board.

Cross examined by Col. Hunt. Does not know whether the Genet or any other vessel borrowed any of their water casks.

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mark

Frederic Cors (sworn.) Examined by the district attorney. Witness shipped on board the Panther at Rio Janeiro; he went on board the vessel before she took in her casks; about 120 casks were filled with

water, pumped out of the river of the harbor; the pump was put outside the vessel, along side; there were two stationary pumps and two spare pumps aboard, one of the stationary pumps was unshipped for the purpose of pumping the water into the casks; the Panther carried about 70 or 80 empty casks; besides these casks, there were about 100 casks of aguadiente; when the Panther arrived at Kabinda, the first thing landed was three or four boxes; the boxes were about four or five feet long, and three feet wide, and about four feet deep; the Panther landed 60 casks of aguadiente and 30 empty casks at Kabinda; the other empty casks were filled there with salt water, for ballast; it took them about 2½ or 3 days to fill those empty casks with salt water; the Panther landed nothing at Kabinda, until about fourteen days after her arrival.

Cross examined by Col. Hunt.—The boxes referred to were stored between decks of the Panther; the farina, beans, rice, jerk beef, and some barrels, were also stored between decks. They used one of the spare pumps of the Panther when they pumped the water in at Kabinda. The water was pumped into the empty casks after the aguadiente and the rest of the cargo were taken out. In landing the cargo at Kabinda, they landed that part first which was the most handy. Witness was ashore at Kabinda; he saw nothing there but small houses and negroes; he saw no negroes confined to stakes at Kabinda; but he saw at Congo 12 or 14 negro girls tied to each other with strings; they were nearly naked; had only a piece of cloth round the loins. He saw one large building at Kabinda; saw some casks of aguadiente in it. Thinks this building was raised some 3 or 4 feet from the ground; thinks this was a place where cargo was discharged; thinks this was one of the first buildings that he met with on landing. He was on shore at Kabinda 2 or 3 times.

FREDERICK CORS.

Here closed the testimony, on the 4th April, 1846, and on the 13th of the same month, previous to the argument of the cause, Mr. Bailey, one of the counsel for the claimant, offered to introduce in evidence a paper purporting to be an account current of the ship Panther with Joshua M. Clapp, dated April 11th, 1846, and showing a balance in favor of the ship of $471 $\frac{95}{100}$.

Mr. Bailey claimed it is a right to introduce this paper at the present stage of the proceedings; the claim of right being objected to by the district attorney, the court refused to receive the paper, because the testimony had been closed on both sides more than a week since, and this day appointed for the argument of the cause.

Appendix.

No. 1.—Letter to Capt. Joshua M. Clapp, New York city.

NEW YORK CITY, *February* 22, 1845.

Capt. JOSHUA M. CLAPP:

SIR: I wish you to take the ship Panther to Cadiz; from thence to

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SIR: I wish you to take the ship Panther to Cadiz; from thence to

Rio Genero. I should lode her withe the best salt I could find at Cadis, and lode her as deep as you think propper for the voyage, and give her all possible despatch at Cadis. As soon as you arrive at Rio and make sale of your salt, or sooner, if convenient, remit me at Providence, R. I., the proceeds of your voyage what you have to spare; remit it the best possible way for me to be sure to get it. I should, if you can make sale of the ship as soon as you get thare at a good price, I should close her at once. If I sold, should get the funds in shape to not lose them in case of the loss of the ship in or after the bargain is closed; if you could get all or a part of it, to remit home, I should do so by all means, as then you will no ware to find it in case of accedent to the ship.

N. B. I should, on the voyage, put all the sails in as good order as posseble, and make an invoice, full of every thing on board; make it very full, as much so as it wil bare; call the new sailes you make new, not mention the wat tha are if you think best to do so. I should put the painting in the best of order as soon as you get in the bends or inside work you ; paint on the passage over if you thort best; I should look her well over round the sturn as I spoke off in painting; you want to make it your whole study to make the ship apear in as good shape as posseble; if you have a chance for to charter for a good price and a long voyage and tha wil not by until you return, I should make them give you all the advance on frate that they wil, and remit it home before you start. I should look out sharp not to get in enney trade, ware you will forfit enney thing or make enney trouble at all; avoid all you possibly can on that hand. I should, when you get in market, look it well over and calkerlate, if the ship should return, to have her value, say $500, or about that price, and then calkerlate the proffits on voyage home, and all together make up your mind what would be best to do with her. I should also se Mr. Burkhead to se wat has been done before on the ground of selling her, when she has been . I should feel all over them, before I struck to se the best you could do with her. I should ask a nuf for her to fall some in price; go to the fountain head, if possible, to se wat must be done and the best. I should apear quite indifferent about selling her. Keep a good look out for them, if tha come on board to examene her; talk it strate into them; try to make every thing move like clock work; look at all sides before you move in any one thing; if you should sel the ship I should try hard to get rid of all expense I could in; look well to that not to have the men and officers drawing their 3 months' pay. You have a gradeal to work out and on yore mind a grate responsibility for a young man and a stranger to me, but I have confidence in your doing for me wat you would like a man to do for you; I shal ever remain so unless I have reasons to believe different. I shal expect you to take good care of the ship; keap her in good order; mak the quickest dispatch possible to make the whole voyage through; write me every chance you have. I wil be pleas to hear from you as often as you may write me from enny point, and if you make a good quick dispatch and a profita-

ble voyage I wil do well buy you. I will give you all the share that a man is deserving. You must calkerlate to remit me all the fugds as fast and at as earlly dates as possible so to do; if exchange is high, I should look all over and ship to suit your mind the most proffittable way to be safe; I should look how and in what way I shipped it, and advise me all that is moving and the prospect ahead of business; make all the ship's expenses as little in all the parts as possible so to do; be careful about losing sail; also about loosing enny chance for making a voyage. Recollect that most passages are made on nite and Sundays. Keep all to yourcelf, and make all work rite, if possible, for my intei-est.

No. 2.—Letter to Capt. J. M. Clapp, capt. of ship Panther, of Providence, R. I.

Messrs. MAXWELL, WRIGHT & Co., *Rio Janeiro—per Mary Chilton.*

PROVIDENCE, *Jan'y 30th*, 1845.

Capt. CLAPP: *Dar sir:* I thort I would send a line by the Bark William & James, thinking that it might reach you before you sale from Cadis. I se since you left that frates has rissen from 40 cts. a bag to 80 cts., and the most of the coffee now here is in the speculating hands; so the price wil come up; most likely the price has come up ¼ to ½ cent on good lots. If you receive this, I wish you to drive on as fast as possible to get to Rio as soon as possible; drive all before you, for you wil be about there to get a first rate frate on coffee; if nothing else apears better in Rio, I should try hard to get 16 more of salt in the ship, and of good quality; put a large frate in the ship as you think she wil carry safe to Rio, and not to waller to much in ruff weather; the arrangements I gave you before I do not alter, only do the best you can for me; consider all before you make up your mind to move on frate or charter enny ware what wil be the best in end for me; try hard to get to Rio as soon as posseble. I hope you kept up with the brig Demmearot down to Cadiz; I heard by a pillot you would not stear very well; hope all is rite, and come out a short voyage and proffitable to both. Passages are made nites and Sundays, some say; all remains the same as you left; very good weather here; most every thing is on the rise here; very fare business doing all round; hope this, if you get it, will find you all in good spirits and health; jest loded and ready for sea; fair wind. Respectfully, yours,

J. A. POTTER.

No. 3.—Letter to Capt. J. M. Clapp, captain of ship Panther, of Providence, R. I.—Messrs. Maxwell, Wright & Co., Rio Janeiro, Brazil. (Pr. bark Mary Chilton.)

PROVIDENCE, *March* 15, 1845.

Capt. J. M. CLAPP.

DEAR SIR: I set down to drop you a few lines hoping that tha wil find you in Rio in good health, and ship in good order and a furst rate

chance for to make money I se at last dates frates 80 cts. per bag to the States Hope you will find salt 62½ bushel & coffee 125 bag frate. Coffee must move in price higher, it is in few men's hands and are able to hold on panther cargo sold from 5½ to 6¾ not first quality, coffee so sed, look sharp to see wat would be the best move for you to make to be the best move for me in the end, consider the case over well before you move, if Hides are low and you have funds as we talked of you must by low if a good lot offers low, look well to it before you by, look at the dates from the States, the stock now is large, but good Hides not to high price is safe, hope all will come out rite if you make arangements to charter and have funds, I think I should send dubberloons home if the other is not handy to by and cheap at that, coffee crop is much cut off in the West Indies, worth last accounts 6½ a 7½ scarce. Coffee I hope wil come up & I se nothing to keep it down long, good houses hold it, and wil, if does not come to thare terms. The panther cargo sold quick large company so stated, good fellows, in bying if you return to the States with coffee I should try to get 7000 thou[d] bags in the ship, fill all up as twil be good time to make passage home Hope this will find you in good health, my cold I had wen you left is jest off of me, had a hard time of it. Hope all things will move to suit the voyage and you will meet with quick dispatch on all hands I should not unless cheap by hides to send home send the shiners if think best, let me hear from you every chance and write the prospects of all at Rio when you get thare, write by the first opportunity, and every one will you stay, the postage is nothing. By the by postage in the States is 10 cts the hiest 5 cts the loest on July 1, 1845. Some talk of war with Mexico, but du not no wat it will come to, not much I think TAXES is now a part of the States by law of Congress, do not know wat will turn up as yet, if you should hear of trouble make the arrangements I spoke of in comming on the cost as the insurance office wil not pay any thing if war should take place, look wel to this point, I du not aprehend danger, but dunot no wat mite come up in time. if you take in coffee I should give the ship a big lode as weather will be fine on the cost, if you wish to make alterations in enny thing from the orders I gave you, do so if think best for me, but look at all sides first before moving on, do as tho the ship belongs to you, and do the best for me you can, some of the old capts. think I mite done better with the ship, but now since things have changed some think different. I saw Capt. Abbott to-day He thort she would hit right as she could, I hope so. I am shure most every thing is on the rise shugars is high and will be, Box Havanah Brown, 6¾, 7 cts. good white, 9½, 10. N. Orleans molasses is worth 38 a 30 by cargo, Cuby common 25 a 26 cargo scarce at that, crop very short in Cuby, Shugar to will be High all the year no dought. Mr. Abbot thinks that Mr. Burkhead at Rio will try hard for the ship as he has done the business for the ship for some years past, I should try and se him to se wat mite be done before you put the ship into enny one hands, manage as to the best advantage for the ship. Burkhead noes the ship, and mout object to frate her, if given to another house look it all over and manage close make

your expenses as lite as posseble and I wil be much obliged, nothing more now, as I can think of, wil be pleas[d] to hear every thing is rite and good luck all round the voyage shall look sharp for letters in time for Rio, also for your arrival home, write all you think will enterest in your letter, also about the trade I spoke of.

Respectfully yours,
JAMES A. POTTER.

No. 4.—Register of the ship Panther.

In pursuance of an act of the Congress of the United States of America, entitled "An act concerning the registering and recording of ships or vessels," James A. Potter, of the city of Providence, State of Rhode Island, having taken or subscribed the oath required by the said act, and having sworn that he is the only owner of the ship or vessel called the Panther, of Providence, whereof Joshua M. Clapp is at present master, and is a citizen of the United States, and that the said ship or vessel was built at Providence, State of Rhode Island, and in the year eighteen hundred [and] nineteen, as per register No. 271, issued at this port on 3d August, 1844, now cancelled—property changed.

[SEAL.] Register.

[SEAL.]

James Talman, Collector.

And said register having certified that the said ship or vessel has two decks and three masts, and that her length is one hundred [and] eight feet, her breadth twenty-nine feet three inches, her depth fourteen feet seven and a half inches, and that she measures four hundred [and] seven $\frac{11}{95}$ tons; that she is a ship, has a square stern, no galleries, and a panther head.

[SEAL.]

And the said James A. Potter having agreed to the description and admeasurement above specified, and sufficient security having been given according to the said act, the said ship has been duly registered at the port of New York.

M. S. Ogden, Naval Officer.

Given under our hands and seal, at the port of New York, this 21st day of February, in the year one thousand eight hundred and forty-five.

No. 5.—List of persons composing the crew of the ship Panther, of , whereof is master J. M. Clapp, bound for Cadiz.

Names.	Places of birth.	Places of residence.	Of what country citizens or subjects.	Age.	Description of their persons.		
					H'gt.	Complexion.	Hair.
					Ft.in.		
John Curtis -	Massachusetts	–	–	38	5 7	Dark.	Brown.
William Wall -	"	–	–	26	5 7½	"	"
John Wooden -	"	–	–	28	5 2	Light.	"
John Lyan -	"	–	–	27	5 7	"	"
Levi Carpenter -	Dist. Columbia	–	–	25	5 7	"	"
James James -	New York	–	–	18	5 5	"	
Thomas Rivley -	Rhode Island	–	United States	31	5 9	"	Dark.
Peter Fox -	Pennsylvania	New York	–	22	5 6	"	Light.
John Powell -	New York	–	–	22	5 8	"	Dark.
William Webb -	Virginia	–	–	23	5 8	"	"
John Newbury -	Connecticut	–	–	24	5 9	Dark.	"
Samuel Wills -	"	–	–	19	5 8	"	"
Richard Griffith -	England	–	–	39	5 6	Light.	Light.
George McGough	"	–	–	26	5 8	"	"

CONSULATE OF THE UNITED STATES,
Cadiz, 19th April, 1845.

I certify that Levi Carpenter has, with my consent, been left in the hospital of Cadiz, and according to the declaration of the captain, J. M. Clapp, Peter Fox has here deserted; and further, that in their stead Henry Young and John Viscaya, two foreigners, have been shipped here.

[SEAL.] A. BURTON, *Consul.*

No. 116.—In Portuguese, of which the following is a translation.

Seen in this vice consulate of the Empire of Brazil, in Cadiz, 19th April, 1845.

The Vice Consul,
[SEAL.] ANGEL M. DE CASTRICIONES.

(Endorsed upon the foregoing paper is the following.)

I, J. M. Clapp, do solemnly, sincerely, and truly declare, that the within list contains the names of the crew of the ship Panther, together with the places of their birth and residence as far as I can ascertain the same.

JOSHUA M. CLAPP.

Sworn this twenty-first day of February, 1845, before me
M. L. DAVIS,
Collector.

I do certify, that the within is a true copy of the list of the crew of the ship Panther of , whereof J. M. Clapp is master, taken from the original on file in this office.

Given under my hand and seal of office, at the custom-house, this twenty-first day of February, in the year of our Lord one thousand eight hundred and forty-five.

M. L. DAVIS.

I do hereby certify, that the within named persons, who compose the company of the above mentioned ship Panther, whereof J. M. Clapp is at present master, have produced to me proof in the manner directed in the act entitled "an act for the relief and protection of American seamen," and pursuant to the said act, and to the act supplementary to the act concerning consuls and vice consuls, and for the further protection of American seamen, I do hereby certify that the said except two, are citizens of the United States of America.

Given under my hand and seal of office, this twenty-first of February, 1845.

M. L. DAVIS.

Attached to the foregoing crew-list is a paper, of which the following is a copy:

CONSULATE OF THE UNITED STATES OF AMERICA, *Rio de Janeiro, Brazil.* { Consular Seal. }

I, the undersigned, consul of the United States, hereby certify, that the persons herein named and described, have engaged at this port on board the ship Panther, Joshua M. Clapp, master, bound hence to the coast of Africa and back to the United States.

Names.	Place of birth.	Citizens or subjects.	Age.	Height.	Complexion.	Hair.
Alvan B. Libby,	Maine,	U. States,	29	5.7½	Light,	Brown
Nathl. Bartels,	Portland,	"	22	5.8½	"	"
Nich. H. Burns,	England,	G. Britain,	37	5.7	Dark,	Dark.
John Loreng,	Bangor,	U. States,	22	5.4	Light,	Brown
James McIntyre,	Maine,	"	24	5.10	Dark,	Dark.
Wm. Bishop, jr.	–	U. States,	40	5.7¾	Dark,	Dark.
Peleg Wilson,	–	No proof,	28	5.8	Light,	Brown
John Brown,	–	No proof,	27	5.7	"	Lt. Br.
James Price,	Hartford, C.,	–	25	5.5½	Dark,	Brown
William Hill,	Plymouth,	–	23	5.7	Light,	"
William Shiels,	–	No proof,	26	5.6½	"	"
Richd. James,	London,	G. Britain,	22	5.3	"	"
Edwd. Ross,	Scotland,	"	30	5.8½	"	"
Alex. McNeill,	Do.	"	24	5.8	"	"
Edwd. Wright,	London,	"	25	5.6	"	Dark.
Robt. Savage,	England,	"	19	5.4	"	Brown

I certify, also, that the following men have been discharged from said ship Panther at this port by mutual consent, viz: John Curtis, William Webb, John Wooden, John Lyon, Edward Johnston, John Jones, Thos. Kirby, John Powell, William Webb, John Newbury, Samuel Welles, Richard Griffith, Geo. McGough, and Henry Young.

Given under my hand and seal of office this 4th day of August, 1845.

[SEAL.]

GEORGE WM. GORDON,
Consul of the United States.

(In Portuguese, of which the following is a translation.)—No. 6.

Account of the expenses, with the despatches of the American ship Panther of - - - - - - - - 597 tons
900

537$300

Anchorage, 900 rs. per ton - - - - - -	537$300
Bill of health - - - - - - - - - -	4.000
General despatch - - - - - - - - -	2.000
Hospital fees - - - - - - - - - -	15.600
Secretary of Marine, for pass - - - - - -	10.24[illegible]
Seal of the documents, and other expenses - - -	23,8[illegible]
Seal of the freight list - - - - - - -	6.000
Brokerage - - - - - - - - - -	4.000
Certificate of the Portuguess consul to documents - -	22.000
	624.977
Add - - - - - - - - - - -	25.023
Received the amount of this account - - - - -	650.000

Rio de Janeiro, 4th August, 1845.

N. V. FORT.

(In Portuguese, of which the following is a translation.)—No. 7.

CONSULATE OF THE UNITED STATES OF AMERICA,
Rio de Janeiro, Brazil.

Crew-list of the American ship Panther, J. M. Clapp, master, on a voyage to the coast of Africa, viz., 1st officer, A. B. Libby; 2d officer, N. Bartels; 3d officer, ———; supercargo, ———; N. H. Burns, John Lurge, J. McIntyre, W. Bishop, jr., Peter Wilson, John Brown, James Price, William Hill, W. Shiels, Robert Savage, Richard Jones, Edward Ross, Alex. McNeill, Edward Wright.

JOSHUA M. CLAPP.

I, the undersigned, consul of the United States in this court, certify that the foregoing crew-list is exact and true, and contains the names of the persons who compose the crew of the American ship Panther,

which consists of the same master, with sixteen other persons, as appears by the declarations I have taken, and the documents which have been presented to me.

GEORGE WM. GORDON,
Consul of the United States.

Rio de Janeiro, 4th August, 1845.

No. 8. Consular clearance from Rio de Janeiro, consulate of the United States of America, Rio de Janeiro, Brazil.

I hereby certify, that on the day of the date hereof I have delivered up to Joshua M. Clapp, master of the American ship Panther, of Providence, admeasured 407 $\frac{37}{95}$ tons, now cleared for the coast of Africa, the register, duplicate articles, and roll of equipage of said vessel.

In testimony whereof I have hereunto set my hand and affixed my [SEAL.] seal of office at Rio de Janeiro, this 4th day of August, A. D. 1845.

GEO. WM. GORDON,
Consul United States.

No. 9. Charter party.

Rio de Janeiro.

On the tenth of July, 1845, it is this day mutually agreed between Joshua M. Clapp, master of the ship called the Panther of Providence, of the measurement of four hundred and seven tons, or thereabouts, now at anchor in the port of Rio de Janeiro, and Mr. Manuel Pinto da Fonseca, merchant of this city, that the said ship being tight and strong, and every way fitted for the voyage, shall, with all convenient speed, take in and receive all lawful goods and merchandise that the charterer may think proper to ship at this or any, or all of the ports herein mentioned, not exceeding what she can reasonably stow and carry, over and above her tackle, apparel, provisions, and furniture; and being so loaded, shall therewith proceed to any one or all of the following ports, viz., Kabenda, Zaire, Angola, or Benguila, and thence to port or ports of discharge in Brazil, or so near thereunto as she may safely get, and deliver the same on being paid freight, at the rate of one thousand seven hundred and fifty Spanish pillar dollars per month, payable two months, at thirty-five hundred dollars, $3,500, prior to the ship's sailing from this port, and the balance upon the completion of the voyage, which begins at the date of this charter party, and ends at such time as the ship shall have discharged her cargo at the last port of discharge above mentioned. (The act of God, the King's enemies, fire, and all and every other dangers and accidents of the seas, rivers, and navigation, of whatever nature and kind soever during the said voyage, always excepted.)

Cargo received and discharged within reach of the tackles. Penalty for non-performance of this agreement five thousand dollars.

M. PINTO FONSECA,
JOSHUA M. CLAPP

(In Portuguese, of which the following is a translation:)

No. 10. Note from Da Cunha to Capt. Clapp.

Capt. CLAPP, esq.

The canoe which was putting water for you, has been taken along side of the English brig by your men. It belongs to the people of the country, and they want it; therefore I beg you to ask for it to the man-of-war and send it on shore.

Your[s] truly,

October 25th, 1845. CUNHA.

(In Portuguese, of which the following is a translation:)

No. 11. Letter from Da Cunha to Capt. Clapp.

Capt. J. M. CLAPP.

DEAR SIR: In consequence of the orders that have been transmitted to me, and according to your charter party, I have resolved that you should proceed with the American galley Panther to the river Zaire, to discharge the forty pipes of brandy which remained from the cargo you brought from Rio de Janeiro to this port, and deliver them to Mr. Angel Molinan, at the port de Liobia, that is, in case the said gentleman does not object to receive them; and should he refuse, you will proceed to port del Ambris, and consign yourself to Mr. Manuel J. de Mattas, and from him you will receive orders to conclude unloading, as I have already informed him; and as there is much difficulty in that port to obtain ballast for your vessel for your return to this port, I have put on board seventy empty casks, in order that in case you should be obliged, after unloading, to make use of them as ballast for the said galley, filling them with salt water; wishing you a pleasant voyage, I am, yours, much obliged, CUNHA.

(In Portuguese, but having the following translation subscribed:)

No. 12. Letter from Da Cunha to Capt. Clapp.

Having ordered embarcations for the discharge that which exist on board of the American ship Panther, under your command, and having returned on shore without cargo, and without informing *to* me the cause, your pleasure knowing that all the delayes, according to your contract of freight, are to me prejudicial, I would to know by your writing the reasons, that I may be able to transact my business.

Your obedient servant, the traductor of the relation above.

(Signed) PLANTA.

(The orginal of the foregoing, in Portuguese, is dated "Cabinda, 17th December, 1845.")

(In Portuguese, of which the following is a translation:)

No. 13. Letter from Da Cunha to Capt. Clapp.

Seeing that up to the present time you have not complied with my

orders, in conformity with the charty party, to proceed on the voyage determined upon, in order to finish the discharging of the goods which you carried from Rio de Janeiro to my order, and other goods which I shipped you in this place, is the cause of my requiring an explanation for my government; you being aware that since the day in which I communicated to you my orders, and they were not complied with, the charter party became null and of no effect, and that you made yourself responsible for all the goods which existed on board (of your cargo.) I expect a clear reply in this respect in writing for my government.

Your obedient servant,

A. J. L. DA CUNHA.

(In Portuguese, of which the following is a translation:)

No. 14. Letter from Da Cunha to Manuel J. De Mattas.

CA., 15*th November*, 1845.

DEAR SIR: In consequence of the frankness which my friend has shewn me, by wishing to oblige me, I take the liberty to give order to the captain, ship Panther, in order that in case he should not discharge some brandy which he has on board at Rio Zarie, to proceed to your port, and consign himself to you, that you may procure him boats to enable him to discharge the said brandy; you will keep an account of it, and follow my anterior orders, that is, in case you can obtain the price which I have limited you already; you will order the said captain to proceed to this port; should the captain be in want of any money to buy provisions, you will be pleased to give him some, and place the same to my account. I have nothing further to tell you at present, and remain, yours, A. J. L. DA CUNHA.

To Snr. MANUEL JOSE DE MATTAS, Ambriz.

No. 15. List of cargo and ballast of ship Panther.

KABENDA, *Dec'r* 15*th*, 1845.

List of cargo and ballast on board the American ship Panther, Joshua M. Clapp, master.

Cargo.

40 pipes of rum; 96 bags of farina; 210 bags of beans; 12 bags and 100 small baskets of salt; 600 sticks of firewood; and the fragments of 30 pipes.

Ballast.

170 pipes of salt water, what may have leaked out excepted.

In consequence of information or complaint against said Panther, it has become the duty of Captain Bell, of the United States ship Yorktown, to examine and satisfy himself regarding the nature of the voyage of the Panther, and also of her cargo; and likewise my interest as master, that he should do so.

I being anxious (for good and sufficient reasons) to discharge the cargo as soon as possible, do hereby pledge myself, that the above is a true list of cargo and ballast on board the Panther.

JOSHUA M. CLAPP.

No. 16. Order from Charles Nicholson to Captain Clapp, to deliver up the brig Gannecleft.

RIO DE JANEIRO, *12th January*, 1844.

Captain JOSHUA M. CLAPP, *of brig Gannecleft.*

DEAR SIR: You will please deliver to the bearer the brig Gannecleft and appurtenances, upon his providing a vessel with lawful cargo to convey yourself and crew to this port.

You must be particular in retaining the brig's register and crew list, and all other documents in conformity with the laws of the United States; and by no means violate any law, whereby you might render yourself and owners liable.

Wishing you a safe and pleasant passage.

I remain, yours, very truly,

CHARLES NICHOLSON.

No. 17. Extracts from log book of ship Panther.

By the log of the ship Panther it appears that she sailed from New York for Cadiz on the 23d February, 1845, and arrived there (Cadiz) on the 19th March, 1845; there discharged her cargo, and took in part of a cargo of salt, and sailed from thence, Cadiz, for Rio de Janeiro, 25th April, 1845, where she arrived on 5th June, 1845, and finished discharging her cargo on 27th June, 1845; on 26th July, 1845, commenced taking in cargo, and was ready for sea 2d August, 1845.

Log is opened on 7th August, 1845, as follows:

Ship Panther, on a passage from Rio de Janeiro towards the west coast of Africa, J. M. Clapp, master, 1845.

Nothing occurred on this passage until we find the following remarks:

Sunday, September 7, 1845, commences with light airs and calm weather, and continues the same until 8, a. m.; ends with a light breeze from E. N. E., and clear weather about 5, p. m. The second mate ordered one of the men (Bowers) to sow a piece of canvass on the mainsail; he, Bowers, laid the canvass on deck, and punch holes in the deck. M. Long, second mate, forbid him doing it. Bowers in reply told him not to speak so loud, they hear him in the cabin aft, meaning myself and the captain, at the time, and also said he was [as] good a man as he was, (2d mate.) About this time the captain and myself came on deck, and saw something wrong; as soon as I ascertained the cause, acting at the time of momentary excitement, I either pushed him or struck him, don't recollect which; he showed fight; I then knocked him down two or three times, and in the scuffle he sprained his wrist; the captain forbade me to strike him again; that if there was any flogging to be done, he would do it himself, or his orders; I did not strike him after the captain's interference. At 4 o'clock,

a. m., my watch being out, I left the deck in charge of Mr. Long, 2d mate; and while a sailor, by the name of Hill, was at the wheel, Mr. Long ordered him to keep the ship to the wind, he would not obey his orders; the captain hearing his voice, went on deck, and (Hill) was still at the time at 7.30; watch being called, I went on deck, the captain told me to have Hill seized up in the rigging, and receive twelve lashes with a cat, nine thread strip, and Hill resisted; but he was overpowered and brought up, and his language was mutinous, he threatening to jump overboard with Captain Clapp, if he was struck; as I struck this Hill three lashes, I being face aft, the men had made a rush aft with handspikes, threatening to cut him out the rigging; they had three handspikes, one hit me, and one went just clear the captain and second mate; and I run in the cabin by Captain Clapp's orders, and brought out two loaded pistols and guns, on which it stopt there; coming aft, and Hill received his lashes, and was cut down by orders from Captain Clapp, he promising to be a faithful seaman.

Nothing else is recorded of importance until the following Monday, September 8th, 1845. Had the steward seized up for being intoxicated, by Captain Clapp, but was not whipped; said steward told that the men forward had made up their mind to come aft to flog the captain, because one Hill, a sailor, was tied up and received his twelve lashes by me, obs. lat. 22.50; orders from Captain Clapp, Hill, he was mutinous in his language.

Monday, September 22d. At 6, a. m., made the land, Cape de Lepason Gonsalvez; at 12, m., off Congo river; at 6, p. m., came to anchor in Congo river, in 7½ fathoms of water, with best bower anchor, furled sails and cleared up. Thus ends this day by calling it thirty hours.

Ship Panther lying in Congo river, J. M. Clapp, master, 1845.

Tuesday, September 23d. This day strong breeze from the westward and pleasant weather; all hands employed getting out boats and ready for discharge cargo; had a visit from the natives at dark; ship *are* ready for sea again.

Wednesday, September 24th. Commences with fine breezes from the westward, and fine weather at day-light; got under way and went to sea; at 9.30, was boarded by a man-of-war brig, called the Alert, (English;) at 6, afternoon, came to anchor in Cabenda, furled sails and cleared up; so ends this passage.

Ship Panther lying at Cabenda, J. M. Clapp, master, 1845.

Thursday, September 25th. This day, light breezes from the southwestward, and good weather; all hands employed doing ship duty. Discharged one launch of cargo on shore.

Friday, September 26th. This day winds the same and showery; all hands employed doing ship duty.

Saturday, 27th September. Commences with strong breezes from the westward and cloudy weather; all hands employed in ship duty; ends the same.

Sunday, September 28th. This day breezes from the south and good weather; nothing doing, being Sunday.

Monday, September 29th. This day good weather; all hands employed in ship duty.

Tuesday, September 30th. This day the same; all hands employed [in] ship duty.

Wednesday, October 1st. This day light winds and pleasant; all hands doing ship duty; barque Pilot sailed for Rio.

Thursday, October 2d. This day good weather; all hands employed [in] ship duty.

Friday, 3d. This day light winds from the S. W. and showery; all hands employed in ship duty.

Saturday, 4th. This day light breezes from the S. W. and pleasant weather; all hands employed [in] ship duty.

Sunday, 5th. This day the same; nothing doing about the ship.

Monday, 6th. This day light breezes from W. and squally; crew employed [in] ship duty; brig Genet came in to anchor, an English man-of-war.

Tuesday, 7th. This day breezes from the S. W. and squally weather; all hands employed in ship's duty.

Wednesday, 8th. This day light breezes from the S. W. and cloudy weather with showers; all hands employed in ship's duty.

Thursday, 9th. This day weather the same; all hands employed about the ship.

Friday, 10th. This day strong west winds and cloudy; all hands in ship's duty.

Saturday, 11th. This day begins in light winds from the southwest and squally weather; all hands employed doing ship's duty.

Sunday, 12th. This day fine breezes from the southwestward and fine weather.

Monday, 13th. This day same; all hands employed in ship's duty.

Tuesday, 14th. This day breezes from the westward and some squally; all hands employed in doing ship's duty.

Wednesday, 15th. This day the same; all hands employed in ship's duty; two English brigs of war came in to anchor.

Thursday, 16th. This day very strong westerly breezes and good weather; all hands employed about the ship.

Friday, 17th. This day strong westerly breezes and cloudy weather; all hands employed doing ship's duty.

Saturday, 18th. This day the same; all hands employed in ship's duty.

Sunday, 19th. This day begins in cloudy weather, ends pleasant.

Monday, 20th. This day commences with strong breezes and fine weather; crew employed in doing ship's duty.

Tuesday, 21st. This day fine breezes from the S. W. and good weather; crew employed doing ship's duty.

Wednesday, 22d. This day breezes from the westward and squally weather; all hands employed doing jobs between decks.

Thursday, 23d. Begins in light breezes and somewhat squally; the men set at work variously as has been the heretofore on board the ship.

About 10, a. m., the 2d mate told me that some of the men had dressed themselves to go on shore; I went between decks and found such to be the case, and ordered them to go to their work, they did so; I then went on deck and remarked to the 2d mate, that the men had been drinking; he said in reply that he was aware of it. While I was engaged with the 2d mate, the men come fighting among themselves; Hill, Bowers, Shawil, Price, and Wilson were the men that *was* a fighting; I went between decks to quiet them; they told me if I interfered with them, they would whip me; as they were fighting with clubs, I thought it dangerous to undertake to separate them; consequently, they fought until about 11.30, a. m., when they became quiet, at 12.30 gave dinner. At 2 o'clock, the 2d mate and myself being at dinner in the cabin, the captain being on shore, and had been since 8 o'clock, we hearing the men in the act of lowering away the long boat which was hoisted up to the starboard bow, we both went forward, and the above mentioned men and another of the name of Bowers were in the boat, lowered down the bow tackle, but had not started the stern tackle, which I caught hold of; Shawil told me to let go as he would cut, which he did do. I then asked them where they were going; one of them said, after skin. About 4, p. m., the captain came aboard, and brought the long boat up, and asked me what the trouble was, and I told him what had happened. At 6, p. m., the men came off to the ship in a canoe, the captain told them not to come on board; he also undertook to tell them the consequence of their proceedings; to which they replied in the most abusive language, and attempted to force their way on board, but were repulsed; then Price asked permission to come on board, and he was allowed to do so, as he had but a little; the remainder then went on board or along side of a French brig of war for redress, as they said; they soon after came along side of the ship and said, they would kill any one that came to hand, and set fire to the ship; or, if they could not get on board, they would go ashore and get negroes to help take the ship.

Friday, October 24th. Commences with fresh breezes and good weather; at 8, a. m., called Price aft to be tied up and be whipped. He drawed his knife to cut the first one that took hold of him, for he said he would not be tied up. Captain Clapp struck him on the head, and he surrendered; so he was seized up, but was not whipped, after being kept there a few minutes, took him down and put him in irons, and kept him twelve hours there. Let him go forward to go to his duty again. William Shawitt and Hill and Bowers and Brown and Wilson left and joined the English brig of war Cygnet.

Saturday, Oct. 25; this day good weather; all on board doing duty.

Sunday, 26; this day fine weather; nothing doing, being Sunday.

Monday, 27; this day breezes from the S. W., and good weather; all hands that belong to the ship doing duty about the ship.

Tuesday, 28; this day breezes the same, and somewhat squally; all that belongs to the ship doing duty

Wednesday, 29; this day begins in rainy weather, ends pleasant; discharged some cargo, &c., on shore; brig Janet sailed for Rio.

Thursday, 30; this day breezes from the S. W. and pleasant weather; discharged some cargo on shore; ends fair.

Friday, 31st; this day breezes from the S. W., and pleasant weather; five sailors came on board to do duty; discharged some cargo.

Saturday, Nov. 1st; this day begins in breezes, the same middle part; had a very heavy squall off the land, attended with thunder and lightning, ends in light breezes and cloudy weather; men employed as usual about the ship.

Sunday, 2d; this day light breezes and variable; nothing doing, being Sunday.

Monday, 3d; this day light winds from the S. W.; at a. m. clear weather, all the remainder part of the day squally; men employed in discharging cargo and ship's duty.

Tuesday, 4th, a. m.; this day strong breezes from the S. W., but clear and fine weather; all hands employed in filling water for ballasting ship, and other work which is required for ship's use.

Wednesday, Nov. 5, a. m.; this day light winds from the S. W.; the American barque Pons of Philadelphia came to anchor; the English man-of-war brig Cygnet, and two Portuguese vessels; this day fine weather, men employed in filling water casks for the purpose of ballasting ship, and which is required of ship's use; there has been some disturbance between Capt. Clapp and the chief mate, which the Capt. required of him to take his room; he wished no more duty from him while on board.

Thursday, Nov. 6, a. m.; this day light winds from the S. W., but clear weather; men employed in ship's duty, sails loose to day, and water casks filled for the purpose of ballasting ship; at p. m. rial yards set aloft, the decks cleared up, the man-of-war brig Cygnet got under way a. m., run down to leeward of Kabenda, and at p. m. came to [anchor] at the same place she left.

Friday, Nov. 7, a. m.; this day light winds from the W., and fine and clear weather, men employed at ship's duty, filling water, hoisted in the long boat and lashed her; at p. m., set up top-gallant-back stay sails, &c.

Saturday, 8th, a. m.; this day much rain with thunder; p. m., men employed at scrubbing ship throughout.

Sunday, 9th, a. m.; this day strong breeze W. S. W., men employed loosing sails to dry; nothing more doing, being Sunday; fine day.

Monday, Nov. 10, a. m.; this day strong wind from the N. E., and much rain; men employed at ship's duty; p. m., cloudy but very little rain.

Tuesday, Nov. 11, a. m.; this day light wind from the S. W., but clear weather; men employed at ship's duty.

Wednesday, Nov. 12, a. m.; this day light winds from the S. W., but fine weather; men employed at ship's duty, best part of the day employed at painting ship.

Thursday, Nov. 13, a. m.; light winds from the W. S. W., and cloudy, looked much like for rain; p. m., much thunder and rain; men

employed at painting part of the day, and other jobs which is required for ship's use.

Friday, Nov. 14, a. m.; light winds from the S. W.; three men came on board as seamen, were employed at ship's duty.

Saturday, Nov. 15, a. m.; light winds from the W. S. W., were employed at getting ship for sea, hove in slack chain yards, mast headed, and other jobs which is required for making ship ready for sea; fine weather p. m.

Sunday, Nov. 16; this day commences with light winds and cloudy weather; at 1030 the sea breeze sprung up, commenced heaving in the cable, mast heading the top-sail yards, &c., and preparing for getting the ship under way to proceed on our voyage; about 11.30 a boat from the English man-of-war Cygnet came along side; the commander and one of the lieutenants came on board, and ordered Capt. Clapp to veer out the cable and make the ship snug, as he should detain her until the arrival of an American man-of-war; Capt. Clapp asked the commander what reasons he had for such proceedings; the reply was, that the ship was engaged in an illicit trade, and having brought here [and] having on board unlawful cargo; he also said the ship was already sold to the Portuguese, and soon after, both he (the commander) and his lieutenant admitted that they believed the ship to be American property; they examined the register, the crew list was demanded, but upon the Capt. Clapp saying that it did not contain a description of the crew now on board, the demand was not repeated. Capt. Clapp asked him what proof he had of the ship being engaged in an illicit trade, of her having on board now, or any other time, unlawful cargo; his reply was, that that *stood* remained to be proved; the Capt. also asked him if he should consider the ship in his (the commander's) possession; he answered, yes; after sundry remarks and inquiries, the commander and lieutenant left the ship without leaving any one in charge of her; about an hour after I went on board the Cygnet with [a] note from Capt. Clapp to the commander; there was an officer and two men put on board the ship; also the lieutenant came on board and told Captain Clapp to consider himself master of the ship, and that those men were merely put on board to see that nothing went out of the ship.

Monday, Nov. 17; this day commences with fine clear weather; at a. m. Capt. Clapp wrote a note to the captain of the brig-of-war Cygnet, which wished to know if he intended to get under way and leave him here until an American man-of-war came, which, if he did, he should get under way and proceed on his voyage; which the captain of the brig-of-war Cygnet sent word by me that he put one officer and two men to keep him from getting his ship under way, and also to see that nothing went out of the ship, and likewise nothing came on board, which he sent another officer on board while after I left, and he told the Capt. Clapp that he was to remain here, and he must not get under way, which he took his leave on board again; in a few moments had past, the commander, purser, sergeant, and two men and the boatswain came from the brig-of-war Cygnet, came on board of Panther; he told the Capt. Clapp that he had come on board to take charge, which the Capt. Clapp an-

swered very well, which told the boatswain that he gave him in charge of the ship; which Capt. Clapp asked him if he shouldn't go on shore; he gave him a rough reply, no; and not to get the ship under way upon his peril, which he gave orders for the men to come aft, which was done; he ordered five of them in his boats, which he taken on board of the brig-of-war Cygnet; which I had the sails loosed to dry; he gave orders to furl sails and hoist up the boat, and gave the boatswain strict orders to let no one leave the ship, nor any one come on board; which the commander went on board of the Cygnet, and got under way and run to the leeward; them that he gave the ship in charge of, they acted as though they had been all together; at 5, p. m., Captain Clapp wished the commanding officer to come in the cabin, which he came; Capt. Clapp asked him if he would allow him to go on shore; he said yes, he might go if he wished, and he would bear the responsibility on myself, if he would come on board by eight o'clock; Capt. Clapp asked him if he should send the boat after he landed; he said yes; Capt. Clapp gave him his word that he would return by eight o'clock; he said that he would send the boat back, which Capt. Clapp got ready and went on shore by his permission; when he got about fifteen or twenty yards from the ship, he asked if he should go on board of the barque Pons, he answered no, which Capt. Clapp did not; when the boat came back, he ordered her to be hoisted up; the cook of the ship Panther was allowed to go fore and aft the ship, cursing and swearing that he would kill the first man [that] came on board, which I did'nt know but he might injure some one; he had a cutlass walking fore and aft the deck about all night; which Capt. Clapp returned about half past seven, and the reply was keep off, or I will fire into you, which the Capt. answered, that he wasn't coming any closer, which the cook of the ship answered fire into the dam'd thief; this answer was made by the cook of the Panther to Capt. Clapp; this was followed up by the English officers, which he insulted several times, which I made no reply, for I see that they let him go on as much as he liked, and no one to stop him. This day ends as I related before.

Tuesday, Nov. 18; this day commences with a squall from the westward, which it contains wind and likewise rain. Capt. Clapp is on shore, which is not permitted on board; at p. m. fine weather; I asked the men to wash the decks; they said, no; I asked them the reason, they was prisoners; I made no further request; the part of the night the men playing cards, and others singing, carrying on at a high rate, which the two officers were joying a part of the night, and threatening what they would do to each other, which the commanding officer told me if the brig didn't come in sight to-morrow, he should get the ship under way and run down to look for her; this day ends with so continued.

Wednesday, Nov. 19, a. m.; this day commences with fresh breeze from the S. W.; fine weather; nothing doing; which the English having charge of the ship; Capt. Clapp came in hail and asked me if his chronometer was run down; I told him it was not, and he told me to wind up the chronometer, which I done so, and requested of me to

take his papers in charge, and to give them up to no one by his orders, which I told him I would do so; he asked me if things was all right; I told him it was; he asked me if I heard the officer say that he would let him go on shore and he would be responsible for it; I told him I did; he went on shore again, which there was a disturbance between the officers again, which by threatening to shoot each other, for such carrying on I never see before; at p. m. an English man-of-war brig Wasp was off the harbor, which sent two boats on shore, which the ship Panther was boarded by one of them, which did not stop long; in the course of three or four hours the two English brigs of war came in and anchored, which Capt. Clapp went off on board of the Cygnet immediately as soon as she came to anchor, which in a short time came to the ship Panther, which they wouldn't allow him to come on board of his own ship which he stop alongside until the English boat came alongside, which the officer from the brig wished to know why he didn't allow Capt. Clapp to come on board; the reply was, that he went on shore; the officer asked me if the Capt. Clapp wished to come on board, which told him that he did, but was not allowed on board, which afterwards Capt. Clapp came on board by the officer's permission; in addition to the above, at the time Capt. Clapp came alongside the ship, he was ordered off by the sentry; the American flag was hoisted at that time at the mizzen peak; this day ends.

Thursday, Nov. 20; commences with wind and weather much the same as usual; at 9, a. m., Cygnet's boat alongside, took the crew, with the exception of the captain and myself on board for an examination, so they said; an officer remained on board and examined the ship's papers. Capt. Clapp told me that the officer doubted, or pretended to doubt, the validity of the register; after being on board about an hour, he, the officer, returned to the brig shortly after; the boat came for me to go on board; went, and was examined; asked into the cabin by Capt. Layton, of the Cygnet, and then examined by the purser of said Cygnet; questioned as follows: Whether I knew of a large box, and what it contained? Told him, from the description he gave of it, I recollected the box, but did not know what it contained; asked if it contained coppers on board? Replied that I did not know; also, that I never heard of there being coppers on board the ship until his captain [had] taken possession of her; asked if I knew of a barrel bursting that contained ladles and spoons? Told him that I saw barrel and took out a ladle, a package of knives and forks, and one of sugar tongs; he then asked if I thought the ship to be American property? Replied that, had I have doubted it, I should have shipp'd in her; I also said to him that had I ever seen any thing on board the ship to cause suspicion, I should be as quick to inform against her as any other man, and consider it my duty and interest to do so; he told me he had no doubt of that.

Friday, Nov. 21, a. m.; wind light throughout, and cloudy for most part of the day; ship still in possession of the English; at 9.30 a. m., the commander of Cygnet came on board, informed Capt. Clapp that he came on purpose to search the ship, which he did without Capt.

Clapp's consent, which resulted in his finding two barrels, one containing bottled porter, which was all gone, the other containing provisions, both broken open since they took the ship; the commander took a letter from the sergeant that the cook had written, read it, and returned on board the Cygnet; soon after, the same officer that accompanied the commander in his searching expedition, returned on board the ship, and examined the contents of 5 barrels, which opened, except the two before mentioned as broken open, which he found to contain a variety of table furniture and cooking utensils; he then returned to the brig; soon after another officer came on board, and took all hands belonging to the ship, except the captain, on board the Cygnet and examined them, which being entered down was signed by each man; the purport of my examination was the same as yesterday; the commander remarked, had not the crew have written to concerning the ship, he should not have taken her, so examination as far as I know.

Saturday, Nov. 22d; wind light and cloudy weather; at 11 a. m., the commander came on board and took the ships papers from the captain, Clapp, sealed them up and gave them to the boatswain of the Cygnet, he being the officer in charge of this ship; about 1 p. m., the Cygnet went to sea, on purpose to fall in with the commodore, to get his advice regarding the seizure of the Panther, at least it was so reported; at sundown, the Cygnet and the commodore's ship (steam-ship) in sight; at 8.50, the Cygnet came to an anchor.

Sunday, Nov. 23d, a. m.; this day commences with a strong breeze from the S. W., but clear weather; ship still in charge of the English; about 11 a. m., English sloop of war came in and anchored; about 1 p. m., the English steamship Penelope came to anchor; the English man-of-war sloop, Cygnet, got under way and run down to those two ships, and came to anchor about 6 p. m.; the two ships got under way and stood out to sea; so ends this day's work.

Monday, Nov. 24, a. m.; this day commences with light winds from the S. W., but clear weather; Capt. Clapp has taken charge of his ship again, but upon what conditions I do not know; ends this day's work.

Tuesday, Nov. 25, a. m.; this day commences with light winds from the S. W., but fine weather; 5 men came on board to day, men employed at ship's duty; chief mate A. B. Libby, and cook James Lough, discharged by mutual consent; so ends this day's work at 12 o'clock. Ship Panther, bound from Kabinda towards Ambrize, at the west coast of Africa; J. M. Clapp, commander.

Wednesday, Nov. 26; they appear to have left Kabinda for Ambrize.

Saturday, Nov. 29; at 7 a. m., made the land, the balance of the day fine, and clear weather; at 12 p. m., boarded by English man-of-war steamer; this day bound into Congo river for provisions, came to anchor at 6 p. m. This day ends at 12 o'clock.

Sunday, Nov. 30, a. m.; this day commences with a strong breeze from S. W.; nothing doing, being Sunday.

Monday, Dec. 1st, a. m.; this day commences with light breeze from the southwest, and much rain; men employed at ship's duty; ship lying in Congo river. So ends this day's work.

Tuesday, Dec. 2, a. m.; this day commences with the same light breeze from the southward; got under weigh and run further up the river; men employed at ship's duty; so ends this day's work.

Wednesday, Dec. 3d, a. m.; this day commences with light breeze from the southward, but clear weather; p. m., boarded by English man-of-war boat; men employed at ship's duty; ship still lying in Congo river; so ends this day's work.

Thursday, Dec. 4, a. m.; this day commences with much rain and strong breeze from the southwest; men employed at ship's duty; ship still lying in Congo river; so ends this day's work.

Friday, Dec. 5; this day commences with light winds from the westward; cloudy weather at 9 a. m.; captain and 4 men went up the river, men employed at ship's duty; ship still lying in Congo river; so end's this day's work.

Saturday, Dec. 6; this day light winds from the eastward; at 2 p. m., got under weigh and run up Congo river with a strong breeze from the south and westward, at night came to; men employed at ship's duty; so ends this day's work.

Sunday, Dec. 7; this day commences with fine and clear weather; at 9 a. m., got under way and run up Congo river with a strong breeze from the southward, at 5 p. m.; run ashore, all sails furled; Capt. Clapp took 4 men in the boat, went up the river; so ends this day's work.

Monday, Dec. 8th; this day commences with a light breeze from the southward, which got under way and run up the river, and at 7 p. m. came to at point Laina; men employed at ship's duty; so ends this day's work.

Tuesday, Dec. 9; this day commences with fine and clear weather; this day received on board a quantity of farina and beans, and immense quantity of wood, which this day ends.

Wednesday, Dec. 10; this day commences with light wind from the southward, but clear weather; this day got under way and came down Congo river, which the depth of water can be carried up and down Congo, is from 5 to 7 fathoms of water; at 9 a. m. got under way from point Linia; at 6 p. m. boarded by English boat; at 8 p. m. came to anchor a short distance from Congo; so ends this day's work.

Thursday, Dec. 11; this day commences with light breeze from northward and eastward, which at 6 a. m. got under way, which is bound to Kabinda; all sail set to the best advantage; at 6 p. m., came to anchor at Kabinda, which was boarded by an English steamer's boat; so ends this day's work.

Friday, Dec. 12; this day commences with a strong breeze from the southward and westward, but fine weather; men employed in discharging cargo and other jobs as required for ship's use; this day five Portuguese left the ship and went on shore; so ends this day's work

NATHANIEL BARTLES.

Saturday, Dec. 13, 1845; this day fine weather and moderate winds; at 7 a. m., the U. S. sloop Yorktown hove in sight from the southward,

with English colors set; at about 9 said Yorktown came to an anchor nearly a quarter of a mile from us, bearing N. N. W. ½ N, soon after boarded by Mr. Steele, the first lieutenant, who requested the ship's papers, which were shown him, viz., the Panther's register, crew-list, consular clearances from the port of Rio Janeiro, bill and receipt of port charges at said port, and a list of crew, given by the American consul at Rio Janeiro, (in Portuguese;) after examining the above papers, Mr. Steele informed me that he should search the ship; I asked him (Mr. Steele) if he was aware that the ship had already been searched by the Cygnet; his reply was that he heard the Panther had been in the possession of the commander of the Cygnet, and at the same time remarked, that he thought I was not aware of being boarded by an American officer. (I was aware of it before.) Mr. Steele sent the above papers on board the Yorktown; I also went on board by the same conveyance, (boat;) while on board the Yorktown, Capt. Bell and myself had some conversation, wherein he remarked to me, that I was not to consider the ship in his possession; I asked him if he was willing that I should communicate with the shore; he replied, that he would rather I would not, but did not forbid it; I then returned on board the Panther; Mr. Steele had, in the mean time, proceeded with his search, and when he left the ship, marines and a sergeant were left on board the Panther; in the afternoon I went again on board the Yorktown to get permission to go on shore, and returned on board the Panther about 8 p. m.

Sunday, Dec. 14.—The weather moderate throughout this day; the mate on shore part of the day; sergeant and his marines still on board. Monday, Dec. 15.—This day commences with moderate weather. At 9, a. m., Mr. Steele, with a complement of men from the Yorktown, came on board, and proceeded to hoist cargo and ballast out of the hold; at 12, m., Mr. Steele returned to the Yorktown. About 2, p. m., Mr. Steele informed me that Capt. Bell, of the Yorktown, had taken, or that he (Mr. Steele) took possession of the Panther; in the course of the forenoon I had delivered the following papers; took a rec'pt for the same, viz., register, crew-list, certificate from the consul at Rio Janeiro, a consular clearance crew-list, in Portuguese, certified by the consul at Rio, bill and rec'pt of port charges at Rio, charter party between Manuel Pinto de Fonseca and myself, list of cargo on board. Thus ends my responsibility on board this ship.

JOSHUA M. CLAPP.

No. 18.

KABENDA, *Nov. 16th*, 1845.

Personally appeard before the undersigned, governor of Porto Rico, Joshua M. Clapp, master of the American ship Panther, of Providence, who declared that on the 23d of Oct. last he discharged the following persons, because of their having mutinied on board the above named ship, viz., Peter Wilson, John Brown, William Hill, William Shrevell, John Bowers, and that on the 25th of the same month he paid them off on board H. B. M. brig Signet.

I also certify, that in consequence of there being no American seamen at this place, the master of said ship is compelled to take foreigners in the place of those discharged as above.

FRANCISCO FRANQUE,
Gov. de Porto Rico.

No. 19.—Bill of lading, in Portuguese, of which the following is a translation.

I, the undersigned, captain of the American barque Panther, at present anchored in this port, on a voyage to the port of Africa, where it is my place of discharging, acknowledge to have received and loaded in the said vessel under deck, dry and in good order, from Jose Antonio Rois, the packages mentioned in the margin, for account of whom it may concern, with the mark as in the margin, which I oblige myself to deliver in the referred port in name of the above named, to Mr. Antonio José Luis da Cunha.

Receiving for freight, and for the fulfilment of which I bind my person, goods, and said vessel. In witness of which I give four bills of lading of equal tenor, of which one only shall have value.

(Signed) Rio Janeiro, August 2d, 1845.

JOSHUA M. CLAPP.

(In the margin of the bill of lading:)

100 pipes aguadiente; 100 do. empty; 2 barrels bacon; 250 bags farina (flour of Brazil;) 100 do. beans; 50 do. rice; 50 bundles, cont'g 200 arrobes jerk'd beef; 1 box, sundry articles (small;) 4 barrels do. do.; 5000 bundles of wood.

I certify the foregoing to be a faithful translation of the accompanying bill of lading of barque Panther in Portuguese.

Charleston, April 4th, 1846. C. D. YOUNG.

May 2d, 1846.

The court met and was opened as usual. Present, his honor R. B. Gilchrist, who pronounced the following decree:

Decree of district court.

In admiralty.

THE UNITED STATES OF AMERICA
vs.
THE SHIP PANTHER, her tackle, apparel, furniture, and lading.

This is an information filed in the name and behalf, as well of the United States as of the officers and crew of the United States ship Yorktown, praying that the ship Panther, her tackle, apparel, furniture, and lading may be condemned as forfeited under certain laws of the United States, in relation to the slave trade.

The information is founded upon the first section of the act of 22d March, 1794, chap. 11, (1st Story's laws U. S., page 319;) on the first

section of the act of 10th, May, 1800, chap. 51, (1st Story's laws U. S., page 780;) on the second section of the act of 20th April, 1818, chap. 86, (3d Story's laws U. S., page 1,698;) and on the first section of the act of the 3d March, 1819, chap. 224, (3d Story's laws U. S., page 1,752.)

To this libel the owner of the vessel has filed his claim, but no claim is as yet interposed for the cargo.

The first section of the act of 1794 enacts, "that no citizen or citizens of the United States, or foreigners, or any other person coming into or residing within the same, shall for himself or any other person whatsoever, either as master, factor, or owner, build, fit, equip, load, or otherwise prepare any ship within any port or place of the said United States, nor shall cause any ship or vessel to sail from any port or place within the same, for the purpose of carrying on any trade or traffic in slaves to any foreign country; or for the purpose of procuring from any foreign kingdom, place or country, the inhabitants of such kingdom, place or country, to be transported to any foreign country, port or place whatever, to be sold or disposed of as slaves; and if any ship or vessel shall be so fitted out as aforesaid, for the said purposes, or shall be caused to sail, so as aforesaid, every such ship or vessel, her tackle, furniture, apparel, and other appurtenances shall be forfeited to the United States," &c. In this section there are two distinct offences designated: that of "building, fitting, equipping, loading, or otherwise preparing" a vessel for the purpose of carrying on the slave trade, and that of causing the vessel to sail for such purpose, either of which leads to a forfeiture of the vessel; and as in the forfeiting part of this section, respecting the sailing of the vessel, there is no word used to indicate a reference to a vessel fitted out, &c., the inference to be deduced is, that forfeiture attaches to the vessel "caused to sail" for the purpose of being engaged in the illegal traffic, whether she has been fitted out for that object or not. As regards the offence of fitting out a vessel for the slave trade, the provisions of this section are so similar to those of the second section of the act of 20th April, 1818, that a construction given to either of these sections may be readily adopted as a proper construction for the other.

The second section of the act of 1818 declares "that no citizen or citizens of the United States, or any other person or persons, shall, after the passing of this act as aforesaid, for himself, themselves, or any other person or persons, whatsoever, either as master, factor, or owner, build, fit, equip, load or otherwise prepare any ship or vessel in any port or place within the jurisdiction of the United States, nor cause any such ship or vessel to sail from any port or place whatsoever within the jurisdiction of the same, for the purpose of procuring any negro, mulatto, or person of color, from any foreign kingdom, place or country, to be transported to any foreign port or place whatsoever, to be held, sold, or otherwise disposed of as slaves, or to be held to service or labor; and if any ship or vessel shall be so built, fitted out, equipped, laden, or otherwise prepared for the purpose aforesaid, every such ship or vessel, her tackle, apparel, furniture, and lading shall be forfeited," &c.

These two sections have at different times received judicial expositions, and the point is now well settled by the decisions of the Supreme Court of the United States, in the cases of the Emily and Caroline, (9 Wheaton's Reports, 381,) the Plattsburg, (10th Wheaton's Reports, 133,) and the United States vs. Gooding, (12th Wheaton's Reports, 460;) as to the fitting out, &c., forbidden by the statute, that it is not necessary that there should be complete equipments for the purpose of carrying on the slave trade, or in fact that any equipments exclusively applicable to such a voyage should be on board of the vessel, "but that any preparations for a slave voyage, which clearly manifest or accompany the illegal intent, even though incomplete and imperfect, and before the departure of the vessel from port, do yet constitute a fitting out within the purview of the statute." (U. S. vs. Gooding, 12th Wheaton, 473.) The statute looks to the intent with which the preparations are made; and provisions or equipments which are suitable for lawful voyages, and therefore innocent in themselves, will nevertheless subject the vessel to forfeiture, if they are intended for the slave trade.

But, as the intent with which such equipments are furnished is necessarily a question of fact, depending upon circumstances, the Congress of the United States, probably with a view to obviate the difficulties attending the decision of such a question, on the 10th of May, 1800, passed an act in addition to the act to prohibit the carrying on the slave trade from the United States to any foreign place or country—that is an act in addition to the act of 1794, already commented on. The first section of this act of 1800 is one of the sections upon which the information in this case is founded; and it declares, "that it shall be unlawful for any citizen of the United States, or other person residing within the United States, directly or indirectly, to hold or have any right or property in any vessel employed or made use of in the transportation or carrying of slaves from one foreign country or place to another, and any right or property belonging as aforesaid shall be forfeited," &c. There is nothing in this section which has any reference to the equipments of the vessel, and I apprehend therefore that, to be embraced by its provisions, it is of no consequence where the vessel was equipped, or what was the original design of her equipment. It is her employment, and the ownership therein of citizens of the United States, or other persons residing within the same, which bring her within the purview of the statute. And the only question which can arise in the interpretation of this section is, whether the actual transportation of negroes is necessary to constitute the employment of the vessel forbidden by the statute. And here I am willing to adopt the opinion expressed by the late Mr. Justice Story in the case of the brig Alexander, (3d Mason's Reports, page 177)—a case in which the claimant contended that there was no offence within the act of 1800, even supposing the vessel was engaged in the slave trade, because no slaves had been taken on board or were on board, during the voyage, for transportation. But this view of the law did not meet with the approbation of the court; and the judgment which was then pronounced, although not binding on this court, I con-

sider entitled to every respect, as emanating from a brilliant light of the Supreme Court of the United States—a light now, alas, extinguished forever. In the words of that distinguished jurist, then, I say that "I interpret the language of the first section of the act of 1800 by that of the third and fourth, and I think that the legislature intended the same thing in all; and that is, that the employment in the business, and for the purposes of the slave trade, and not merely the actual transportation of slaves, should be prohibited and punished."

The first section of the act of 3d March, 1819, gives to the President authority to employ the armed vessels of the United States to seize and bring into any port of the same "all ships or vessels of the United States, wheresoever found, which may have taken on board, or which may be intended for the purpose of taking on board, or of transporting, or may have transported, any negro," &c., contrary to the provisions of any of the acts prohibiting the traffic in slaves. This act purports to be in addition to the acts prohibiting the slave trade; and, construed in connexion with them, shows the design of the law-makers to have been to subject equally to forfeiture the vessel which may have taken on board any negro, &c., and the vessel which may only be intended for that purpose.

The foregoing are the sections of the laws under which the libellants ask for the forfeiture of the ship Panther; and the remarks which I have already made indicate my opinion of the extent of their operation, and of the construction to be given to them.

But it is contended by the counsel for the claimant, that if the owner or master had fitted out the vessel, to be employed by some other person in the slave trade, there is no forfeiture under the law; that, to bring the vessel within the purview of the law, he must have fitted her out with the intention of employing her himself in that trade. And in support of this view, the following language of the Supreme Court of the United States, in the case of Gooding, (12th Wheaton's Reports, page 478,) is relied on as authority: "There is a clear distinction between causing a vessel to sail, or to be sent away with intent to employ her in the slave trade, and with intent that she should be employed in that trade. The former applies to an intent of the party causing the act, the latter to the employment of the vessel, whether by himself or a stranger. The evidence may fully support these counts, and yet may not constitute an offence within the act of Congress; for the employment by a mere stranger would not justify the conviction of the party charged with causing her to sail or to be sent away, with intent to employ her in the slave trade, as owner." But I do not think that the case of Gooding will sustain the position assumed in behalf of the claimant. That was the case of an indictment filed against the defendant on the third section of the act of the 20th of April, 1818, which imposes the penalty of the law on "every person or persons so building, fitting out, equipping, loading, or otherwise preparing or sending away, or causing any of the acts aforesaid to be done, with intent to employ such ship or vessel," &c.; and one of the exceptions taken to the indictment was that certain

counts were defective in charging the defendant with intent that the vessel should be employed in the slave trade, instead of charging him with intent to employ her.

The decision, then, on this point of the case, was upon the allegations in the indictment, which were excepted to; and I apprehend that the court meant to decide no more than that the exception should be sustained, because the words of the particular statute were not followed.

In fact, the language of the court, immediately following that which has just been quoted, is in affirmance of this view; for it is there added, that "there is no reason in criminal cases why the court should help any such defective allegations. The words of the statute should be pursued." Besides, if it be proper to carry the decision in the case of Gooding to the extent contended for, it would be in opposition to the language of the act of 1794, where, in the second section, the penalty is imposed on every person building, &c., or sending away any ship or vessel, knowing or intending that the same shall be employed "in the slave trade, making it immaterial by whom the vessel shall be so employed. And it would be subversive of the views taken by the same court, in the case of the Merino and al., (9 Wheaton's Reports, page 404,) in relation to the acts of 1800 and 1818, where it is stated that the language of those acts "leaves no reasonable doubt that the intention of the legislature was to prevent citizens of, or residents within, the United States from affording any facilities to this trade, although they should have no interest or property in the slaves themselves, and although they should not be immediately instrumental to the transportation of them from their native country."

With these views, then, of the laws referred to in the information, I shall now proceed to consider whether the circumstances of the case bring the Panther within the purview of those laws; and as no slaves or persons of color were found on board of the vessel at the time of her capture, or were actually transported by her, this question of fact turns upon the intent accompanying her equipment and employment. Such intent is to be ascertained from acts where there are no admissions or declarations of the party implicated, to indicate it; and facts inferred from circumstances which either necessarily or usually attend such facts, are presumptions which may be regarded as conclusive proofs of those facts, 'till the contrary be proved.

Now, what are the circumstances of the case before the court? Some time in the month of January, 1845, the claimant purchased, for the sum of $5,500, the Panther, a ship with two decks, and measuring about 407 tons, his register of the vessel however bearing date the 21st of the following month of February. On the 23d of that month the Panther sailed from New York for Cadiz, with a cargo of staves; the sum of $400 having been expended in clearing her out from New York, and putting the cargo on board. On her arrival at Cadiz she discharged her cargo, took in part of a cargo of salt, and sailed thence for Rio de Janeiro, where she arrived on the 5th of June, 1845. So far, then, and up to the time of the arrival of the Panther at Rio de Janeiro, there

may be nothing in her proceedings to excite suspicion; but the character of those proceedings may be affected by her subsequent conduct, and "acts which otherwise would be indifferent, and might be intended as well for an innocent as a prohibited enterprise, become offences" within the law. Thus, if it be shown that the Panther was engaged in an illicit traffic on the coast of Africa, her route to that country by the way of Cadiz, and her equipments on leaving New York, however innocent in themselves, will not save her from the penalty of the law. As respects the subsequent conduct of the Panther after her arrival at Rio de Janeiro, the testimony discloses the following among other facts: On the 10th of July, 1845, the master of the Panther executed a charter party with a certain Manuel Pinto de Fonseca, of Rio de Janeiro, by which it was agreed that the Panther should take in and receive all lawful goods and merchandise that the charterer might think proper to ship at that or any or all of the ports therein mentioned, and that she should proceed therewith to "any one or all of the following ports, viz., Kabinda, Zaire, Angola or Benguila, and thence to port or ports of discharge in Brazil," and deliver the same on being paid freight, "at the rate of one thousand seven hundred and fifty Spanish pillar dollars per month," &c. On the 4th of August, within a month after the execution of the charter party, the American consul at Rio de Janeiro gave, under his official seal, a certificate that the persons therein named and described, to wit, the crew of the Panther, had engaged in that port on board the ship Panther, bound thence "to the coast of Africa and back to the United States." Here is the first link in the chain of circumstances commencing at Rio de Janeiro; and it is difficult to understand why there should be this difference between the charter party and the consular certificate in the statement as to the port to which the Panther was to return. It may be that there was a wilful misrepresentation to the American consul as to the return port of the vessel, that there might be no unpleasant questions asked by him in relation to the projected voyage—a voyage from the coast of Africa to the United States being a fair and legitimate voyage, while a voyage from the coast of Africa to Brazil is not unfrequently of a different character. But whatever may be the cause, the discrepance stands unexplained. Under this charter party, then, the Panther sailed for the coast of Africa on the 7th August, 1845, having on board as cargo 100 pipes of aguadiente and a quantity of provisions, the probable value of which at Rio, according to the testimony of the master, was $2,750: 100 empty pipes; 1 box and 4 barrels, containing sundry small articles, (not specified,) and 5,000 bundles of wood; and among her equipments, 2 long six-pounders, 5 muskets, 8 boarding-pikes, a small quantity of round shot and grape; about 14 blank powder cylinders and equipments for guns. On the 22d she anchored in the Congo river, where she laid until the 24th; and then having communicated with the shore through a Portuguese passenger on board, sailed for Kabinda, where she arrived on the same day. She continued at Kabinda until the 26th of November, when she sailed from that place for Ambrize, but put again into the

Congo river on the 29th November, where she remained until the 11th of December, when she sailed thence, and arrived at Kabinda on the same day. During that time she was frequently visited by boats from English vessels of war hovering on that part of the coast of Africa, and at one period was in the possession of a British prize crew for several days on suspicion of being engaged in the slave trade. On the 25th of September, the day after her first arrival at Kabinda, the Panther, according to an entry in her log-book, "discharged one launch of cargo on shore," and although the weather was fine, landed no more of her cargo from that time until the 29th of October, when she landed a portion of it, and appears to have continued discharging for several days following, but her whole cargo was not discharged on the 12th of December, three or four days before she was formally taken possession of by the Yorktown. Now, here is a concurrence of circumstances which may well raise the strongest presumptions against the lawfulness of the traffic in which the Panther was engaged. A vessel chartered at the rate of $1,750 a month, carrying a cargo valued only at $2,750, (and that, too, according to a bill of lading in evidence, shipped by another person than the charterer,) going to a section of country notorious as a slave mart (A,) and remaining lingering there about two months and a half, without having taken on board, during that period, any return cargo, (except two ivory teeth and a half barrel, containing 14 gallons, of palm oil, the private property of the master,) is a course of trade certainly not usual in ordinary voyages; and when to these facts be added those of the favorable adaptation of the Panther, with her two decks, for the slave trade, her guns, pikes, and ammunition, the number of empty casks, and the quantity of provisions and firewood which she had on board—equipments absolutely necessary in slave voyages, the circumstances against the vessel become strengthened in the view of the court. And the force of those circumstances is certainly not lessened by the testimony before the court, in relation to the affair of the brig Gannicleffi, a vessel in which the master of the Panther, some time in the year 1843, sailed as mate from New York for Lisbon, thence for Rio, where, after her arrival, he was placed in command of her, and sailed thence with a cargo of dry-goods and aguadiente, under a charter for Kabinda, at which place he arrived on one day, transferred the vessel by directions from her owner the next day to a person whom he met there, he and her crew leaving her at the same time, taking with them the vessel's papers, and the next succeeding day she sailed with slaves from Kabinda for Brazil. Now, although it appears that the present claimant had no interest in the Gannicleffi, yet the conduct of the master of the Panther in that business is very significant of the nature of the trade in which he has been engaged on the coast of Africa, and may be adduced as evidence of the manner in which the slave trade is there carried on, when American vessels are fitted out and transferred for that purpose.

(A) Maltebrun's Universal Geography, 3d vol., page 40.

It is true, however, that there were no handcuffs and fetters found on board the Panther, but it is in evidence that there were no shackles of any kind on board of the Pons, a vessel carrying a great number of slaves, and captured on the 30th of November last, a few days after she had sailed from Kabinda; and it is understood that such articles are now dispensed with on board of slavers, as they afford too unerring badges of the traffic. It is also true that the testimony of the master and mate of the Panther is a denial of her being intended for the slave trade; but the master of the Panther is too deeply implicated in the transaction for full credence to be given to his evidence, and the intent may have existed, without the mate being aware of the fact. Nor can I place reliance on their statement that the Panther was intended to take passengers on her return voyage to Rio, as such an intention is inconsistent with the conduct of the vessel while on the coast of Africa.

Upon the whole, therefore, I have come to the conclusion to pronounce against the claimant, and decree that the ship Panther, her tackle, apparel, and furniture be condemned and forfeited to the United States for the uses specified by law.

The case of the cargo is reserved for further consideration.

(Signed) R. B. GILCHRIST, *D. J.*

At Charleston, 2d May, 1846.

Order to sell cargo.

May 12, 1846. The court met, &c. Present, his honor R. B. Gilchrist.

The UNITED STATES
vs.
The ship PANTHER and cargo.

On motion of the U. S. attorney, it is ordered that the marshal do sell the cargo of the Panther, which has not yet been claimed, and pay the proceeds into this court to abide the further order of the court in relation to the said cargo.

Petition of appeal to circuit court.

THE UNITED STATES OF AMERICA,
Sixth circuit, South Carolina district.

In the circuit court of the United States for said district.

To the honorable James M. Wayne, one of the associate justices of the Supreme Court of the United States, and judge of the sixth circuit.

The petition and appeal of James A. Potter, owner of the ship Panther, respectfully shews, that on the day of September, A. D. eighteen hundred and forty-five, while the said ship was under the command of one J. M. Clapp, and in the pursuit of a lawful voyage on the coast of Africa, she was seized by Captain H. Layton, of the British ship Cygnet, but was shortly after released. That subsequently, and while still in pursuit of a lawful voyage, to wit, at Cabenda on the day of , A. D. eighteen hundred and forty-

, the said ship Panther was again seized, being under command of said J. M. Clapp, by Charles H. Bell, commanding the United States ship Yorktown, and was sent home by him to the port of Charleston, to be tried upon a libel for engaging in the slave trade on that coast, contrary to the laws of the United States in such case made and provided. That said libel was filed in the district court of the United States, and your petitioner filed his claim as owner, and the cause was tried in said court, at the term thereof, and the said vessel was decreed to be forfeited to the United States for being engaged in the slave trade, with costs, contrary to the laws of the United States as aforesaid; full copies of which libel, claim, decree, and testimony, may be found hereto annexed.

Your petitioner, therefore, appeals from the said decree, and prays that the said cause may be reheard, that the said decree may be reversed, and that your petitioner may receive such other and further relief in the premises, as to your honor may seem meet; and your petitioner will ever pray, and so forth.

B. F. HUNT,
Proctor for Libellants.

Filed 21st May, 1846.

Order to restore the ship's register.

May 23, 1846. At chambers, before his honor R. B. Gilchrist.

The UNITED STATES
vs.
The ship PANTHER.

On motion of B. F. Hunt, ordered that the register of the ship Panther, which was taken from his possession, be delivered to Captain Clapp.

Account [of] sales of cargo.

Sales of the cargo of the ship Panther, by virtue of an interlocutory order from the district court of the United States for South Carolina district.

3	pipes agua ardiente,	236	galls., at	24	- -	$56 64
35	" "	4063	"	23	- -	934 49
1	dam'gd,	118	"	12	- -	14 16
1	ullage, salted,	38	"	6	- -	2 28
30	bushels beans,			54	- -	16 20
25½	" "			"	- -	13 77
4	" "			"	- -	2 16
3	" "			52	- -	1 56
3	" "			51	- -	1 53
3	" "			46	- -	1 38
40	" "			43¾	- -	17 50
10	" "			"	- -	4 38

5	bushels beans,	at 43¾	- -	$2 19
5	" "	"	- -	2 19
23¾	" "	"	- -	10 44
10	T. farina canvass bags,	22½	- -	2 25
10	" "	24	- -	2 40
10	" "	25	- -	2 50
10	" "	28	- -	2 80
18¾	" "	27	- -	5 06
7⅓	" "	21	- -	1 57
10	" grass bags,	28	- -	2 80
11½	" "	28	- -	3 22
7	bushs. farina, grass bags,	28	- -	1 96
10	" " "	28	- -	2 80
11½	grass bags salt (dirty)	15	- -	1 72
½	bbl. coarse salt - - -		- -	43
61	small bundles salt - -		- -	1 22
	A small lot cooking utensils -		- -	4 00
	A box with a few pipes and corks		- -	50
2	tin lanterns - - -		- -	62
5¾	bushels white beans, at 26 -		- -	1 50
3	tin cases sweetmeats, 1.50 -		- -	4 50
	Small ullage keg pigs' feet -		- -	18
1	bbl. vinegar ullage, damaged -		- -	7
	A lot firewood - - -		- -	7 00
163	empty pipes, at 7 - -		- -	11 41
1	bbl., cont'g a few dried apples -		- -	13
1½	bbl. beans and farina mixed -		- -	2 50
	Ullage bbl. palm oil, 68¼ lbs. at 7		- -	4 77
				$1,148 78

Charges:

Writ of sale - - - -	$2 00	
Custody, 78 days - - -	39 00	
Gauging - - - -	5 00	
Storage 8 weeks - - -	49 60	
Drayage rum - - - -	8 00	
Hire of laborers - - -	69 75	
Advertising sale - - -	18 31	
Monition - - - - -	10 00	
Commss. - - - - -	20 60	
		222 26
		$926 52

THO. D. CONDY,
U. S. Marsl. S. C. D.

13 *July*, 1846.

Petition of salvage for anchor and chain cable.

Monday, April 5, 1847. The court met, &c. Present, his honor R. B. Gilchrist.

ANDREW WALLACE et al.
vs.
JAMES A. POTTER, owner of the anchor of the ship Panther.

Mr. Kunhardt, proctor for petitioners, read the following petition:

THE UNITED STATES OF AMERICA,
South Carolina district.

To the honorable Robert B. Gilchrist, judge of the district court of the United States for the district of South Carolina.

The humble petition of Andrew Wallace, master and owner of a smack called the Mystic, on behalf of himself and crew, would respectfully show: That some time in the early part of March, A. D. eighteen hundred and forty-six, the ship Panther was brought into this port (to wit, the port of Charleston) under the command of an officer of the United States Navy, having been arrested, as it was alleged, for a violation of an act of Congress for the suppression of the slave trade. That in coming over the bar she lost an anchor and chain, and that seeing an advertisement to that effect in the newspapers, by the navy agent of this port, Mr. Herriot, your petitioners went in the said smack called the Mystic, and after some personal risk, as well as injury to the smack, succeeded in obtaining and safely bringing the anchor and chain aforesaid to the navy yard, where it was delivered to the persons there in charge of said yard, on the day of March, A. D. one thousand eight hundred and forty-six.

And your petitioners would further state, that they were induced to deliver the anchor and chain, and not libel it in the court of admiralty for salvage, upon the assurance that they should receive the sum of one hundred and ten dollars from the United States marshal as soon as the said anchor was delivered, and that relying on this assurance they did deliver it.

And your petitioners would further shew, that the said ship Panther, together with her furniture and apparel, anchor, &c., were libelled in the United States court for the alleged violation of an act of Congress for the suppression of the slave trade, and it was decreed by said court to be forfeited to the United States for the violation of the aforesaid act.

And your petitioners further shew, that afterwards, to wit, on the 6th of April, A. D. 1846, James A. Potter, the owner of the Panther, and N. G. Bourne, and S. Mowry, jr., his securities, entered into a bond, in the penal sum of six thousand six hundred and sixty-four dollars, conditioned for the payment of three thousand three hundred and thirty-two dollars, if the said ship, the Panther, and her anchors and furniture, should be decreed as forfeited as aforesaid, in violation of the act of Congress for the suppression of the slave trade, and that upon

his giving said bond, the said ship Panther and her anchor and furniture were delivered over to the said James A. Potter, and has been sent beyond the jurisdiction of this honorable court.

And your petitioners would also state, that in the valuation of the said ship, the Panther, her furniture and apparel, the anchor and chain above referred to was valued at the sum of three hundred and thirty-two dollars.

Wherefore your petitioners pray that the said bond aforesaid may be decreed to stand in the place and represent the anchor and chain aforesaid, and that the said James A. Potter may be decreed to pay the sum of one hundred and ten dollars, the amount agreed upon as the amount to be allowed for salvage, and that on his paying that sum that the bond aforesaid be credited with that amount; and your petitioner will ever pray, &c.

ANDREW WALLACE,
KUNHARDT,
Solicitor for petitioners.

Sworn to before me this 3d April, 1847.
W. W. KUNHARDT, *Mag.*

STATE OF SOUTH CAROLINA,
Charleston district.

Personally appeared B. G. Heriot, who being sworn deposeth, that as far as his memory serves him, and to the best of his belief, the amount agreed to be paid for the delivery of the anchor was either one hundred or one hundred and ten dollars, or thereabouts.

BENJ. G. HERIOT.

Sworn to before me this 5th April, 1847.
W. W. KUNHARDT, *Mag.*

STATE OF SOUTH CAROLINA,
Charleston district.

Personally appeared before me Thomas D. Condy, who being duly sworn deposeth, that to the best of his recollection the amount he was informed (at the time the anchor was delivered) which was to be paid for said services was one hundred and ten dollars, and this deponent is more confirmed in the belief from the fact that he thought at the time he could have got it done for one hundred dollars; he further swears that the anchor was delivered.

THO. D. CONDY.

Sworn to before me this 5th April, 1847.
W. W. KUNHARDT, *Mag.*

Order to pay salvage.

The court then made the following order, to wit:

On reading the petition filed in this case, and on motion of W. W. Kunhardt, esq., solicitor for petitioners, and with consent of Messrs.

Bailey and Brewster, solicitors for defendant, and of Edward McCrady, esq.; United States attorney, it is ordered, that the said James A. Potter do pay to Andrew Wallace the sum of one hundred and ten dollars, the amount agreed upon for salvage, for raising and bringing to this port in March (1846) an anchor and chain belonging to the ship Panther, which was then in custody of an officer of the United States navy, as it is alleged, for a violation of an act of Congress for the suppression of the slave trade; and that the said sum of one hundred and ten dollars be credited upon the bond of the said James A. Potter, entered into on the 6th April, 1846, conditioned for the payment of $3,332 in case the said ship and anchor and furniture should be adjudged forfeited to the United States for the violation of the law aforesaid.

Order to postpone hearing.

In the circuit court of the United States for the South Carolina district.
Thursday, 8th April, 1847.

Present, his honor James M. Wayne.

THE UNITED STATES vs. THE SHIP PANTHER, her tackle, &c. } In appeal.

The court made the following order in this case:

This cause having been called for a hearing upon appeal from the district court, a motion was made by H. Bailey, esq., proctor for appellant, for a continuance, upon the ground of the non-return of the commission which had been issued upon the part of the defendants to take the testimony of Maxwell, Wright & Co., and Robert Gannett, at Rio Janeiro, in the empire of Brazil; and it appearing to the court that not more than the usual time had elapsed since the said commission had been sent than was necessary for its return, although there had been unnecessary and unusual delay in issuing the said commission; in consideration of the expectation of the proctor that the said commission would be returned in the course of the ensuing month, the court directs the hearing of this cause to be postponed until the 1st day of July next, it being understood and agreed to by counsel in open court, that the same should be argued upon paper, and that the decree of the court shall then be pronounced as of this present term.

(Signed,) JAMES M. WAYNE.

Decree of circuit court.

In the circuit court, Thursday, 23d March, 1848.

The court met, &c. Present, his honor James M. Wayne.

THE UNITED STATES OF AMERICA
vs.
THE AMERICAN SHIP PANTHER, her tackel, apparel, and furniture.

Information for being concerned in the slave trade.

Decree of condemnation.—Appeal.

Mr. McCrady, (the United States attorney,) and Col. Hunt, proctor for appellant, read the documentary evidence, and the evidence taken in the court below.

Col. Hunt was heard in behalf of the appellant; and Mr. McCrady was heard on part of the United States.

Whereupon the court made the following decree:

The appeal on the part of the defendant, James A. Potter, having been heard, it is ordered and decreed, that the decree of the district court, from which the appeal is taken, be, and it is hereby affirmed, and that the ship Panther, her tackle, apparel, and furniture, be condemned and forfeited to the United States for the uses specified by law.

U. S. CIRCUIT COURT, CLERK'S OFFICE,
South Carolina district.

CHARLESTON, *November 14th*, 1848.

I do certify, that these one hundred and twenty-two pages of paper contain just and true copies of the proceedings had in the case of the United States of America vs. the American ship Panther, her tackle, apparel, &c., which are of record in this office.

In testimony whereof I have hereunto set my hand and the seal of the said court.

[SEAL.]

H. Y. GRAY,
Cir. ct. cl'k, S. C. D.

UNITED STATES OF AMERICA, ss.

To the United States of America, greeting:

You are hereby cited and admonished to be and appear before the Supreme Court of the United States, on the first Monday of December, in the year of our Lord one thousand eight hundred and forty-eight, pursuant to an appeal from a decree of the circuit court of the United States, for the district of South Carolina, wherein James A. Potter is appellant, and you are appellee, to show cause, if any there be, why the said decree should not be corrected, and speedy justice be done to the parties in that behalf.

Witness my hand at Charleston, this twenty-first day of October, in the year of our Lord one thousand eight hundred and forty-eight.

R. B. GILCHRIST,
Judge of the United States, for the district of South Carolina.

I acknowledge service of this citation, 21st October, 1848.

EDWARD McCRADY,
U. S. Att'y, S. C. Dist.

Appeal bond.

UNITED STATES OF AMERICA,
South Carolina district.

Know all men by these presents, that we, James A. Potter, N. G. Bourne, and Smith Mowry, jr., are held and firmly bound, unto the United States of America, in the full and just sum of four thousand seven hundred and fifteen dollars 20 cents, lawful money of the United States, to be paid to the said United States, or their attorney; to which payment, well and truly to be made and done, we bind ourselves, and each and every of our heirs, executors, and administrators, jointly and severally, by these presents. Sealed with our seals, and dated the fourteenth day of November, in the year of our Lord one thousand eight hundred and forty-eight, and in the seventy-third of our sovereignty and independence.

Whereas an information was lately filed in the court of admiralty, for South Carolina district aforesaid, by the United States of America, against the American ship the Panther, her tackle, apparel, and furniture, and the said James A. Potter appeared and claimed the same as sole owner thereof; and whereas the said ship, the Panther, her tackle, apparel, and furniture, by the decree of the said court, were condemned as forfeited to the United States for the uses specified by law; and whereas the said James A. Potter having interposed an appeal from the decree of the district court to the circuit court of the said States, for South Carolina district, which was allowed, and the said decree on the argument of the said appeal before the said circuit court has been affirmed; and whereas the said James A. Potter has interposed an appeal from the said decree to the Supreme Court of the United States, to be holden at Washington.

Now, the condition of the above obligation is such, that if the aforesaid James A. Potter, the appellant, shall prosecute his appeal to effect, and answer and pay all such damages and costs as shall be adjudged and decreed by the said Supreme Court, if they fail to make their plea good, and in all respects conform to and abide by such order or orders as may be made in the premises, then and in such case the foregoing obligation shall be void, or to be and remain in full force and virtue.

JAMES A. POTTER, [L. S.]
Per att'y, L. T. Potter.
N. G. BOURNE, [L. S.]
S. MOWRY, Jr. [L. S.]

Taken and acknowledged before me,

H. Y. GRAY,
Cl'k cir. ct.

The security to this bond being by me deemed amply sufficient, I hereby approve the same.

R. B. GILCHRIST,
Judge of the United States, for the district of South Carolina.

[REC. CVII, D. T., 1850.]—10